



Travis County Commissioners Court Agenda Request

Meeting Date: July 3, 2012

Prepared By/Phone Number: Jason G. Walker/44562; Marvin Brice, CPPB, Assistant Purchasing Agent

Elected/Appointed Official/Dept. Head: Cyd Grimes

Commissioners Court Sponsor: Judge Biscoe

Agenda Language: APPROVE CONTRACT AWARD FOR LAKE OAK ESTATES SUBSTANDARD ROAD IMPROVEMENTS PROJECT, RFQ NO. Q120134-JW, TO THE HIGHEST QUALIFIED FIRM, BROWN & GAY ENGINEERS, INC.

- **Purchasing Recommendation and Comments:** Purchasing concurs with department and recommends approval of requested action. This procurement action meets the compliance requirements as outlined by the statutes.
- This project is for the necessary improvements to bring those identified roads of Lake Oak Estates, located east of RM 620 and west of Lake Austin, up to minimum Travis County standards so that they can be accepted for maintenance. Currently such roads do not meet Travis County standards and cannot be accepted into the Travis County maintained roadway system. The lack of organized and routine maintenance will only allow further deterioration of roadway conditions, decreasing the safety of the roads and jeopardizing access to homes.
- On February 29, 2012, six (6) proposals were received for the design of Lake Oak Estates Substandard Road Improvements project, in which TNR staff evaluated and rated the qualifications of each firm using a standard rating form, as developed by TNR. As a result, a short-list consisting of the top three ranking firms was generated. Each short-listed firm was interviewed on April 5, 2012 to determine the highest qualified firm for completing the required work. TNR staff rated the firms based upon their responses to standardized questions as developed by TNR.
- As a result, on April 24, 2012 the court authorized staff to commence

AGENDA REQUEST DEADLINE: All agenda requests and supporting materials must be submitted as a pdf to Cheryl Aker in the County Judge's office, Cheryl.Aker@co.travis.tx.us by Tuesdays at 5:00 p.m. for the next week's meeting.

negotiations with Brown & Gay Engineers, Inc.

- TNR and Purchasing has negotiated a scope and fee for the project and recommends awarding a Professional Services Agreement to the highest rated firm, Brown & Gay Engineers, Inc., in the amount of \$109,321.10.
- **Contract Expenditures:** Within the last N/A months \$0.00 has been spent against this contract/requirement.
- **Contract-Related Information:**
 - Award Amount: \$109,321.10
 - Contract Type: Professional Services Agreement
 - Contract Period: Through Completion
- **Contract Modification Information: N/A**
 - Modification Amount:
 - Modification Type:
 - Modification Period:
- **Solicitation-Related Information:**
 - Solicitations Sent: 94 Responses Received: 6
 - HUB Information: Vendor is % HUB Subcontractor: 33.5%
not a HUB
- **Special Contract Considerations:**
 - Award has been protested; interested parties have been notified.
 - Award is not to the lowest bidder; interested parties have been notified.
 - Comments: N/A
- **Funding Information:**
 - Shopping Cart/Funds Reservation in SAP: 300000172
 - Cost Center/Fund Center(s): 1490190001
 - Comments:

AGENDA REQUEST DEADLINE: All agenda requests and supporting materials must be submitted as a pdf to Cheryl Aker in the County Judge's office, Cheryl.Aker@co.travis.tx.us by Tuesdays at 5:00 p.m. for the next week's meeting.

TRANSPORTATION AND NATURAL RESOURCES

STEVEN M. MANILLA, P.E., COUNTY EXECUTIVE-TNR



411 West 13th Street
Executive Office Building
PO Box 1748
Austin, Texas 78767
Phone: (512) 854-9383
Fax: (512) 854-4697

June 20, 2012

MEMORANDUM

TO: Cyd V. Grimes, C.P.M., Purchasing Agent
Marvin Brice, Assistant Purchasing Agent
FROM: Steve Manilla, P.E., County Executive-TNR
SUBJECT: Professional Services Agreement (PSA) for Lake Oak Estates Substandard Road Improvements, RFQ # Q120134-JW

The following information is for your use in preparing a PSA and agenda item for Commissioners Court action. Please contact Lee Turner at 512-854-7598 if you have any questions.

Proposed Motion:

Consider and take appropriate action on a request to approve a Professional Services Agreement for the design of the Lake Oak Estates Substandard Road Improvements, in Precinct Three.

Summary and Staff Recommendations:

Commissioners Court approved the use of Housing and Urban Development (HUD) Community Development Block Grant (CDBG) funding for the design of improvements to selected substandard roads in the Lake Oak Estates Subdivision in northwestern Travis County in June 2011. TNR requested the Purchasing Office obtain professional consulting services for engineering design on February 3, 2012. Purchasing developed an RFQ for these services and on February 29, 2012 received proposals from six firms. TNR staff evaluated and rated the qualifications of each firm and on April 24, 2012 presented to the Commissioners Court a recommendation to begin negotiations with the highest qualified firm, determined to be Brown & Gay Engineers, Inc. (Brown & Gay). Since the approval by the Court, TNR has completed scope and fee negotiations and obtained approval from the Travis County CDBG office to proceed with the PSA.

After approval of the PSA and issuance of a notice-to-proceed by the Purchasing Office, the consultant will have 210 calendar days to complete the engineering work. Due to the project being funded with CDBG funds, additional time might be required to obtain required approvals from HUD. The 210 calendar days does not include time for County staff to review submittals or designs from Brown & Gay.

TNR recommends approval of the PSA with Brown & Gay engineering and Consulting, Inc. for the Lake Oak Estates Substandard Road Improvements project.

Budgetary and Fiscal Impact:

This project was included in the CDBG Program Year 2011 project list that was approved by the Commissioners Court in June 2011. The total estimated project cost is approximately \$675,000. HUD allows as much as 20% of the total project costs to be allocated for surveying and engineering services. HUD will provide 100% of the project funding through its grant program. TNR Engineering and Survey staff will be used to supplement Brown & Gay, if necessary, to insure the funding rules and guidelines are met.

The cost of the PSA will be \$109,321.10 (See attached fee summary). This amounts to approximately 16% of the total anticipated project cost for the six substandard roads scheduled to be improved.

Funds Reservation Document Number: 3000000172

Fund: 2054

Grant: 800073

Funds Center 1490190001

Sponsored Program: 6000005

Sponsored Class: 521040

Issues and Opportunities:

The required consultant services include all work necessary to provide plans, specifications, estimates and construction documents for improving the roadways. The improvements involve reconstructing the following roads to bring them into compliance with Chapter 84 of the Travis County Code, Unaccepted Substandard Roadway Specifications:

- Cavalier Canyon Dr. – 1000 ft from No Name cross street to Covenant Canyon Trail
- Bowling Lane – 1200 ft from No Name cross street to Covenant Canyon Trail
- Holly Lane – 1600 ft from Meadowlark St to Covenant Canyon Trail
- Meadowlark St – 300 ft North of Nightingale Lane
- Covenant Canyon Trail – 600 ft from Holly Lane to Cavalier Canyon Dr.
- Unnamed Side Streets – 500 ft between Holly Lane, Bowling Lane and Cavalier Canyon Dr.

The reconstruction will typically be limited to matching the existing roadway geometry and making only those improvements needed to achieve an appropriate pavement structure, minimum safe lane width and stopping site distance, minimum roadside safety requirements, an effective roadway drainage system capable of conveying a 25-year storm event without overtopping the roadway, and appropriate signing and pavement markings. With the possible exception of slope, drainage, and site-distance easements, the project will be designed to be contained within existing dedicated right-of-way in order to minimize right-of-way acquisitions and maximize roadway improvements.

The project will be funded through the Federal Community Development Block Grant program and must be completed in compliance with all requirements of the NEPA, 24 CFR Part 58.5 and 58.6 and 24 CFR Part 51. The NEPA (National Environmental Policy Act) process requires analyses of multiple factors to determine their impact upon the environment and the community.

Background:

Lake Oak Estates is located east of RM 620 and west of Lake Austin, in northwestern Travis County. It is identified as a low to moderate-income area. The roads in the Lake Oak Estates area are low speed-low volume roads. The roads do not meet minimum Travis County standards, so they cannot be accepted into the Travis County maintained roadway system. Lack of an organized and routine roadway maintenance program will cause further deterioration of roadway conditions that will decrease the safety of the roads and jeopardize access to homes. This project will provide the improvements necessary to bring the roadways that serve low to moderate income households in Lake Oak Estates to minimum Travis County standards, so they can be accepted for maintenance by the County.

This project will include modifications to roadways and intersections, and drainage structures and systems. The scope of services include utility relocation coordination, traffic maintenance plans, ensuring compliance with the National Environmental Policy Act of 1969, as amended, NEPA related Statutes and Authorities (24 CFR Part 58.5 and 58.6), and HUD environmental standards (24 CFR Part 51), public meetings and hearings, and construction administration services.

Required Authorizations:

CDBG Office: Christy Moffett
County Attorney's Office: Chris Gilmore
Planning & Budget Office: Jessica Rio

Attachment:

Brown & Gay Fee Summary
Location Map

CC:
Steve Sun, P.E. TNR Public Works
Lee Turner, P.E., TNR Public Works
Donna Williams-Jones, TNR Financial Services
Tawana Gardner, TNR Financial Services
Jason Walker, Purchasing

Funds Reservation 300000172

General Data			
Document type	NE	Document type	030
Company code	1000	Document date	06/13/2012
FM area	1000	Posting date	06/13/2012
Controlling area	1000	Currency	USD/ 1.00000
Statistics			
Entered by	GARDNET	Created on	06/13/2012
Last changed by		Last changed	
More Data			
Text	SSR-LAKE OAK ESTATES-BROWN & GAY ENGINEERS		
Reference			
Overall Amount	109,321.10 USD		

Document item 001			
Text	DESIGN SERVICES		
Commitment item	521040	Funds center	1490190001
Fund	2054	G/L account	521040
Cost center		Due on	
Vendor		Customer	
Amount	109,321.10 USD		

DRAFT

SECTION

PROFESSIONAL SERVICES AGREEMENT

BETWEEN

TRAVIS COUNTY

AND

BROWN & GAY ENGINEERS, INC.

FOR

PROFESSIONAL ENGINEERING SERVICES

FOR

LAKE OAK ESTATES SUBSTANDARD ROAD IMPROVEMENT PROJECT

CONTRACT NO. 12AE0134JW

STATE OF TEXAS

COUNTY OF TRAVIS

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EMPLOYMENT OF THE CONSULTANT
BASIC SERVICES OF THE CONSULTANT
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COMPENSATION AND PAYMENT SCHEDULE
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COORDINATION WITH COUNTY
WORK-RELATED TRAVEL EXPENSES
SUPPORT AND FURNISHING
CONSULTANT'S RESPONSIBILITY
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MAINTENANCE OF AND RIGHT TO RECORDS
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1.2 SEVERABILITY
1.3 EQUAL OPPORTUNITY IN OBTAINING
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1.5 EMBLEM
1.6 INCLUDE
1.7 INSURANCE REQUIREMENTS
1.8 FORTIFICE OF CONTRACT
1.9 PARTIAL
1.10 PREVAILING
1.11 PROPERTY TAXES
1.12 TAXPAYER IDENTIFICATION
1.13 SUBSIDIARIES AND ASSOCIATES
1.14 SMALL AND MEDIUM BUSINESS
1.15 BUSINESS
1.16 FUNDING OUT
1.17 FUNDING
1.18 NON-WEAVER OF BENEFIT
1.19 MEDIATION
1.20 SET ASIDE NOT TO BENEFIT
1.21 CONSULTANT CERTIFICATIONS
1.22 CIVIL RIGHTS/AE COMPLIANCE
1.23 GRATUITIES
1.24 CERTIFICATION OF ELIGIBILITY TO RECEIVE FEDERAL FUNDS
1.25 HOBBYING CERTIFICATION
1.26 MORNING
1.27 INCORPORATION OF EXHIBITS, ATTACHMENTS, AND APPENDICES
1.28 ENTIRE AGREEMENT
1.29 CONFIDENTIALITY
1.30 AMENDMENT

PROFESSIONAL SERVICES AGREEMENT (PSA)

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PROFESSIONAL SERVICES AGREEMENT (PSA)

**STATE OF TEXAS §
 §
COUNTY OF TRAVIS §**

This Agreement is made and entered into by and between Travis County, Texas, a political subdivision of the State of Texas, (the "COUNTY") and Brown & Gay Engineers, Inc. (the "CONSULTANT") (this "Agreement").

WHEREAS, the County has received certain funds from the U. S. Department of Housing and Urban Development ("HUD") under Title I of the Housing and Community Development Act of 1974, as amended, 42 U.S.A. 5301 et.seq. (hereinafter referred to as "the Community Development Act"), for utilization in connection with its community development block grant fund operating budget (hereinafter referred to as "Grant Fund") for community development services;

WHEREAS, the County wishes to engage the Consultant to carry out the Project;

WHEREAS, Texas Government Code, Chapter 2254, Subchapter A, sets forth requirements which the County must follow to enter into contracts for professional services as defined in Section 2254.002(2);

WHEREAS, this Agreement is supported, in whole or in part, by federal funds from HUD, applicable federal regulations require the procurement of professional contract services using qualifications-based selection procedures whereby each respondent's qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation; (or procurement by non-competitive proposals as authorized by applicable federal law and upon approval of the County);

WHEREAS, the professional services covered hereunder were procured in accordance with applicable federal law and state law;

WHEREAS, the County desires to obtain professional engineering services, design-related services, and other related services in connection with the Project;

WHEREAS, the CONSULTANT has the professional ability and expertise to fulfill the requirements of the Project, and to counsel the COUNTY in the selection and analysis of cost-effective alternatives; and

WHEREAS, this Agreement is exempted from the bidding requirements of the County Purchasing Act pursuant to Section 262.024(a)(4) of the Local Government Code as this is a contract for professional services;

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein, the amount and sufficiency of which are acknowledged, the COUNTY and the CONSULTANT agree as follows:

SECTION 1 EMPLOYMENT OF THE CONSULTANT

- 1.1 The COUNTY agrees to contract with the CONSULTANT as an independent contractor and the CONSULTANT agrees to perform professional architectural, landscape architectural, and engineering services as described herein. As a condition to this contractual obligation, it is specifically agreed that any disputes arising hereunder must be submitted to the County Executive of the Travis County Transportation and Natural Resources Department (the "COUNTY EXECUTIVE"). Disputes pertaining to non-technical matters will be handled in accordance with Paragraph 11.9 of this Agreement. The COUNTY EXECUTIVE has complete authority for the purpose of resolving technical matters. In all other cases, the decision of the Travis County Commissioners Court (the "Commissioners Court") will be final and binding.
- 1.2 The COUNTY will provide the CONSULTANT convenient access to all existing plans, maps, studies, reports, field notes, statistics, computations, and other data in its possession relative to existing facilities and to the Project. The CONSULTANT must make copies of needed information and promptly return all originals. Cost of such copies will be a reimbursable expense. The CONSULTANT's copies of the foregoing material must be returned to the COUNTY upon completion of the Project, if the COUNTY EXECUTIVE so instructs the CONSULTANT.
- 1.3 The COUNTY cannot guarantee the accuracy of all information which it provides to the CONSULTANT. The CONSULTANT may rely on professional sealed documents to the extent that the original professional would have been held liable for the information contained therein, in accordance with industry standard practice. Information provided in record or as-built documents that is critical to the current design work should be field-verified by the CONSULTANT in accordance with his professional judgment. The CONSULTANT may rely on other project information provided by the COUNTY, such as program data or design criteria, in accordance with industry standards, except as otherwise modified herein.
- 1.4 If the COUNTY EXECUTIVE observes or otherwise becomes aware of any fault or defect in the Work Product, as defined herein, the COUNTY EXECUTIVE will give prompt written notice thereof to the CONSULTANT. The CONSULTANT must correct any such fault or defect at no cost to the COUNTY.

SECTION 2 BASIC SERVICES OF THE CONSULTANT

- 2.1 The CONSULTANT is responsible for the complete design and documentation of the work described herein, and must prepare the Work Product, as defined herein, in a manner that will be acceptable to the COUNTY EXECUTIVE. The CONSULTANT must also serve as the COUNTY'S professional consultant in those phases of the Project to which this Agreement applies and must consult with and give advice to the COUNTY during the performance of the Project.
- 2.2 The CONSULTANT must perform the "Basic Services," which mean:

- 2.2.1 all elements of labor, materials and equipment required for the Project, which must be rendered to the satisfaction of the COUNTY EXECUTIVE and the Commissioners Court and in accordance with the requirements, policies, and standard practices of Travis County;
- 2.2.2 the detailed Scope of Services for the Project, set forth in Appendix A, attached hereto and made a part hereof (the "Scope of Services");
- 2.2.3 all requirements stated in the Qualifications Statement submitted by the CONSULTANT in response to the RFQ for this Project, which is incorporated herein by reference as if set out attached hereto as Appendix B and made a part hereof;
- 2.2.4 the Work Product, as defined herein, which the CONSULTANT must submit to the COUNTY for review at regular intervals, as specified in the Project Schedule to be provided by the CONSULTANT, attached hereto as Exhibit 3 and made a part hereof.
- 2.2.5 all aspects of the design requirements, any obligations under a HUD grant fund agreement, and federal requirements pertinent to identifying and composing each item of work in a construction contract.
- 2.3 The CONSULTANT must use all applicable codes in performing the Basic Services for the Project. The standards, codes, specifications, or other technical, design or professional requirements applying to this project must be the latest edition in effect on the date on which this PSA is executed, unless the CONSULTANT and the COUNTY expressly agree otherwise. The applicable codes for this project include, but are not limited to:
- a. Uniform Building Code
 - b. National Fire Code
 - c. National Plumbing Code
 - d. National Mechanical Code
 - e. City of Austin Energy Guidelines/Codes, or applicable electric service provider's guidelines/codes
 - f. Travis County Design Standards for Construction of Streets and Drainage in Subdivisions
 - g. AASHTO A Policy on Geometric Design of Highways and Streets
 - h. Texas Manual of Uniform Traffic Control Devices for Streets and Highways (current edition and revisions)
 - i. Texas Department of Transportation Construction Manual
 - j. City of Austin Drainage Criteria Manual (current version and updates)
 - k. Texas Department of Transportation's Standard Specifications for Construction of Highways, Streets and Bridges, 2004
 - l. National Environmental Policy Act (NEPA)
 - m. Architectural Barriers, Texas Department of Licensing and Regulation
 - n. Americans with Disabilities Act (ADA) Regulations
 - o. Army Corps of Engineers Regulations
 - p. Edwards Aquifer Regulations
 - q. Texas Commission on Environmental Quality applicable regulations

- 2.4 As part of the Basic Services, the CONSULTANT must report to the County any suspected hazardous materials in the areas of proposed construction. Hazardous materials assessment and abatement work will be provided by the County under separate contract.
- 2.5 The performance of services under this Agreement by a subconsultant or subcontractor of the CONSULTANT does not relieve the CONSULTANT of any responsibilities under this Agreement.

SECTION 3 CONSTRUCTION COST

- 3.1 The construction cost is the total cost to the COUNTY of all elements of the Project designed or specified by the CONSULTANT (the "Construction Cost").
- 3.2 The Construction Cost includes the cost at current market rates, including a reasonable allowance for overhead and profit, (i) of labor and materials and any equipment which has been designed, specified, selected, or specially provided for by the CONSULTANT and (ii) of permitting fees and other fees and charges required by the City of Austin or other governmental authorities. It may be necessary to conduct a cost or price analysis in accordance with 24 C.F.R. Section 85.36(f), and a fair and reasonable profit will be estimated as a separate element in accordance with 85.36(f)(2). The Construction Cost does not include the compensation of the CONSULTANT and other consultants.
- 3.3
 - 3.3.1 Consistent with 24 C.F.R. Section 85.36(f), the Consultant shall prepare a detailed estimate of Construction Costs which consists of a tabulated listing of construction bid items, documenting the professional's estimate of the Project's total Construct Cost. The listing includes the description, unit bid price and quantity of each bid item for the major categories of work, such as roadway items, bridge items, items in other categories as defined by the engineer, and all other different categories of work included in the Project, such as work performed by the County [utility work, storm sewer, sidewalk, landscaping, etc.], and work eligible or ineligible for federal funding. Such cost estimates must be consistent with the federal cost principles set forth in 24 C.F.R. Section 85.22.
 - 3.3.2 Subject to 24 C.F.R. Section 85.36(f) and 24 C.F.R. Section 85.22, detailed estimates of the Construction Cost prepared by the Consultant represent the Consultant's best judgment as a design professional familiar with the construction industry. The Consultant may rely on RS MEANS current edition for unit prices. It is recognized, however, that neither the Consultant nor the County has control over the cost of labor, materials, or equipment, or control over contractor's methods of determining bid prices, or over competitive bidding, market, or negotiating conditions.
- 3.4 The CONSULTANT may include contingencies for design, bidding, and price escalation to determine what materials, equipment, component systems, and types of construction are to be included in the Work Product (as defined in Section 7), and may include in the Work Product alternate bids to adjust the Construction Cost to the fixed limit.

3.5

If the Project budget or fixed limit of Construction Cost is exceeded by the lowest responsible bid, the COUNTY may:

3.5.1 give written approval of an increase in the Project budget or fixed limit,

3.5.2 authorize rebidding of the Project within a reasonable time,

3.5.3 if the Project is abandoned, terminate this Agreement, or

3.5.4 revise the scope of the Project to reduce the Construction Cost.

3.6 If the COUNTY chooses to proceed under clause 3.5.4 above, the CONSULTANT, without additional compensation, must modify the documents that the CONSULTANT is responsible for preparing under the Basic Services portion of this Professional Services Agreement, as necessary to comply with the fixed limit.

3.7 The CONSULTANT must estimate the total project budget, including reimbursables, contingencies, permit fees, and agency fees. The budget must not include (1) hazardous material testing and removal if any is required or (2) any costs for furniture, fixtures and equipment. As part of the services, the CONSULTANT must report any suspected occurrence of hazardous materials in the areas of proposed remodeling to the County. Hazardous materials abatement work will be provided by the County under separate contract.

SECTION 4 COMPENSATION AND PAYMENT SCHEDULE

4.1 In consideration of the CONSULTANT's performance of the Basic Services, the CONSULTANT will receive the Basic Services compensation described in Exhibit 1, attached hereto and made a part hereof. The Basic Services compensation will be paid in accordance with the payment schedule set forth in Exhibit 1.

4.2 For the performance of services not specifically described in the Basic Services (the "Additional Services"), the CONSULTANT will receive the Additional Services compensation described in Exhibit 1.

4.3 County shall not be liable to Consultant for the payment of any unallowable costs described in applicable provisions of 2 C.F.R. Part 225 (including Appendices A and B thereto) or other applicable federal law.

4.4 Satisfactory progress of work shall be maintained as a condition of payment.

4.5 The compensation and payment obligations hereunder shall not apply to any work performed before or after the contract period.

4.6 In the event of any dispute over the classification of the CONSULTANT's services as "Basic" or "Additional" services under this Agreement, the decision of the COUNTY EXECUTIVE will be final and binding on the CONSULTANT.

4.7 Compensation hereunder shall not include taxes paid by the Consultant. The Consultant may

obtain a tax exempt certificate from the Travis County Purchasing office.

SECTION 5 PERIOD OF SERVICE

- 5.1 The CONSULTANT must perform the professional services described herein, whether "Basic" or "Additional" services, in accordance with the Project Schedule, attached hereto as Exhibit 3 and made a part hereof. Any such modification must include an update to the Project.
- 5.2 This Agreement will become effective on the Effective Date, as defined herein, and will remain in full force and effect for the period required for the complete design of, construction contract award for, and construction of the Project, including warranty periods and any extensions of time as provided herein (the "Project Completion Date" or "End Date"), unless sooner terminated as provided for herein.
- 5.3 If the performance by CONSULTANT or the COUNTY of either party's obligations hereunder is interrupted or delayed by any occurrence not occasioned by its own conduct, whether such occurrence be an act of God or the result of war, riot, civil commotion, sovereign conduct, or the act or conduct of any person or persons not a party hereto, then it will be excused from such performance for such period of time as is reasonably necessary after such occurrence to remedy the effects thereof. Upon the discovery of such an event, the party whose performance is affected under this section must notify the other party, and a special meeting will be called by the COUNTY EXECUTIVE to propose a program for a solution to the problem, and if necessary, to establish an estimated period of time for resolving the problem without extending the Project Completion Date. A written request for an extension of time, when properly documented and justified by the circumstances, may be granted by the COUNTY EXECUTIVE as long as the Project Completion Date is not extended.

SECTION 6 COORDINATION WITH COUNTY

- 6.1
- 6.1.1 The COUNTY EXECUTIVE will serve as the Project Manager and will act on behalf of the COUNTY with respect to any and all services to be performed under this Agreement. The County will monitor this Agreement to verify that the Consultant is performing the professional services covered hereunder in compliance with the terms and conditions of this Agreement and to ensure compliance with the type of work and work schedule set forth in this Agreement, including Appendix A, and Exhibit 3. The Project Manager will monitor the Consultant's performance to ensure Consultant's compliance with applicable federal requirements. The Project Manager will also monitor the Consultant's performance to ensure that performance goals are being achieved to ensure that the work progress is on schedule and that the Project remains within budget, to identify any errors or omissions in Consultant's performance of services hereunder, and to coordinate with the Consultant to correct any errors or omissions in such services; provided, however, nothing in this paragraph may be construed to relieve the Consultant of its responsibility to discover and correct errors and omissions in its

services under this Agreement including the Exhibits and Attachments hereto. Such monitoring will include periodic reviews of tasks against deliverables, as well as a review of progress reports submitted by the Consultant against the tasks and deliverables. The County will monitor each Program, function or activity covered hereunder.

- 6.1.2 The COUNTY EXECUTIVE has complete authority to interpret and define the COUNTY's policies and decisions with respect to the CONSULTANT's services. The COUNTY EXECUTIVE may designate representatives to transmit instructions and receive information. The Consultant's services are also subject to applicable federal regulations.
- 6.1.3 The County Executive may designate representatives to transmit instructions and receive information.
- 6.1.4 The County Executive may visit the actual work site to inspect the work environment and/or the administrative offices to review documents and other contract records.
- 6.2 The CONSULTANT must not commence work until the CONSULTANT has been thoroughly briefed on the scope of the Project by the COUNTY EXECUTIVE. The CONSULTANT must not commence work on the Project until receipt of a written notice to proceed issued by the Travis County Purchasing Agent upon the recommendation of the COUNTY EXECUTIVE (the "Notice to Proceed"). The CONSULTANT must not commence work on any phase of the Project, as such phases are described in the Scope of Services, until receipt of a written Notice to Proceed, which will be issued by the COUNTY EXECUTIVE.
- 6.3 At the beginning of each phase and before written authorization to proceed with that phase is issued, the CONSULTANT must submit to the COUNTY EXECUTIVE the Project Schedule, as updated and adjusted as required for each phase. In addition, the CONSULTANT must make monthly progress reports with comparisons to the Project Schedule.
- 6.4 In addition to the CONSULTANT's obligations described in the Scope of Services pertaining to meetings, at intervals that must not exceed 30 days, the CONSULTANT must arrange for and attend progress meetings with representatives of the COUNTY and, as applicable, any other governmental authority having jurisdiction over the Project to explain and receive feedback on the work-in-progress.
- 6.5 The CONSULTANT must furnish all available data and reasonable assistance necessary to comply with established application, review, and approval processes for any permits, grants, or planning advances required for the Project. The CONSULTANT must familiarize himself with and comply with established application, review, and approval processes as necessary to assure that reasonable compliance will cause no delay to the Project Schedule.
- 6.6 The CONSULTANT has the responsibility at all times under the terms of this Agreement for advising the COUNTY whether in the CONSULTANT's judgment it is feasible to proceed with the Project given any constraints affecting the Project.

- 6.7 The CONSULTANT must cooperate and coordinate with the COUNTY's staff and other consultants and contractors as reasonable and necessary in performance of this Agreement and as required by the COUNTY EXECUTIVE.

SECTION 7 WORK PRODUCT

- 7.1 The term "Work Product" means any reports, drawings, plans, specifications and any other documents created, obtained or assembled in connection with performance of this Agreement and with the services rendered in connection with the Project, including but not limited to any and all deliverables for each phase of the Project as described in the Scope of Services.
- 7.2 The Work Product must be submitted by the CONSULTANT for each phase of the Project on or before the dates specified in the Project Schedule provided by the CONSULTANT. Upon receipt of the Work Product, the submission will be checked for completion. A "Complete" submission means that all items listed, referenced and otherwise described in this Agreement relating to that phase of the Project have been included.
- 7.3 If the submission is Complete, the COUNTY shall notify the CONSULTANT and the COUNTY's Technical Review Process, as defined herein, will begin. If the submission is incomplete, the COUNTY will notify the CONSULTANT, who must perform such professional services as are required to complete the Work Product for that phase and must resubmit it to the COUNTY.
- 7.4 The COUNTY's "Technical Review Process" means the County's review of the Complete Work Product for substantial compliance with the technical specifications and requirements included in the Basic Services. If necessary, the Complete Work Product will be returned to the CONSULTANT, who must perform any professional services required for such compliance and resubmit the Complete Work Product to the COUNTY.
- 7.5 The process described in paragraph 7.3 and 7.4 will be repeated until the Work Product is accepted by County. "Acceptance" means that in the COUNTY EXECUTIVE's opinion substantial compliance with the technical specifications and requirements has been achieved.
- 7.6 After Acceptance, the CONSULTANT must perform any required modifications, corrections, redesigns, and additional work as requested by the COUNTY and any other governmental entities having jurisdiction over the Project and as necessary to receive final approval by the COUNTY EXECUTIVE. "Approval" means formal written recognition that the Work Product for that phase is Complete and that compliance with the technical specifications and requirements has been fully achieved.
- 7.7 In the event of any dispute over the classification of the CONSULTANT's Work Product as "Complete", "Accepted", or "Approved" under this Agreement, the decision of the COUNTY EXECUTIVE will be final and binding on the CONSULTANT.
- 7.8 The Consultant must promptly advise the County in writing of events that have a significant impact upon the progress of services provided hereunder including the following:

- 7.8.1 problems, delays, or adverse conditions which will materially affect or impair the ability of the Consultant to meet Project goals. This disclosure must include a statement of the action taken or contemplated, and any assistance needed to resolve the situation; and
 - 7.8.2 favorable developments which enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more beneficial results than originally planned.
- 7.9 This Subsection 7.9 applies to all services performed under this Agreement. The County and/or HUD representatives have the right to make site visits as warranted by program needs. If any site visits are made on the premises of the Consultant or subconsultant or subcontractor, Consultant must provide and require its subconsultants and subcontractors to provide all reasonable facilities and assistance for the safety and convenience of the County representatives and/or federal representatives in the performance of their duties.

SECTION 8 REVISION TO WORK PRODUCT

- 8.1 After Approval by the County of the Work Product for each Project phase, the CONSULTANT must, without additional compensation, perform any professional services required as a result of the CONSULTANT's development of the Work Product which are found to be in error or omission. In addition, if it is necessary to revise the Work Product in order to make the Project constructible, the CONSULTANT must do so without additional compensation. However, after Approval by County, any revisions, additions, or other modifications made at the COUNTY's request for the convenience of County, which involve extra services and expenses to the CONSULTANT, will entitle the CONSULTANT to additional compensation for such extra services and expenses and will be paid as Additional Services in accordance with Exhibits 1 and 2. Written authorization for Additional Services must be obtained in advance in accordance with Exhibit 1.

SECTION 9 REIMBURSABLE EXPENSES

- 9.1 "Reimbursable Expenses" means expenses in addition to the compensation for Basic Services or Additional Services set forth in Exhibits 1 and 2, and shall include actual expenditures made by the CONSULTANT in the interest of the Project for the expenses listed below:
- 9.1.1 Expense of reproductions, plotting of drawings, and/or other documents for other than the in-house use of the CONSULTANT. Also allowable as reimbursables are postage, delivery expenses, and mileage that are for the Work Product(s);
 - 9.1.2 Expense of review and permitting fees as required by governmental authorities having jurisdiction over the Project; and
 - 9.1.3 The Sub-consultant Management Fee is a to be determined (TBD) percentage negotiated between the COUNTY and the CONSULTANT, for the management of any sub consultants utilized in the performance of the Basic Services or Additional Services

set forth in Exhibits 1 and 2. The COUNTY reserves the right to waive the Sub-consultant Management Multiplier during negotiations.

- 9.2 Unless this Agreement has been amended or modified as provided herein, at no time may the payments made for each of the above-listed categories of Reimbursable Expenses exceed the amount shown in Exhibit 1.
- 9.3 To be eligible for reimbursement, the Consultant's costs also must:
- 9.3.1 Be incurred in accordance with the terms and conditions of this Agreement including the Exhibits and Attachments hereto;
 - 9.3.2 Be in accordance with Exhibits 1 and 2; and
 - 9.3.3 Comply with cost principles set forth in 24 C.F.R. Section 85.22 and 2 C.F.R. Part 225 (including Appendices A and B thereto).
- 9.4 Satisfactory progress of work shall be maintained as a condition of payment.
- 9.5 Any costs incurred before or after the contract period shall be ineligible for reimbursement. In addition, those costs which are "unallowable costs" under 24 C.F.R. Section 85.22 or 2 C.F.R. Part 225 (including Appendices A and B thereto) shall not be reimbursable hereunder. Costs which may not be reimbursed under Section 85.22 or 2 C.F.R. Part 225 also shall not be reimbursable hereunder.
- 9.6 Payment of Reimbursable Expenses will be made monthly upon presentation of the CONSULTANT's statement of services rendered or expenses incurred. Receipts for all reimbursable expenses must be submitted with each invoice.
- 9.7 The COUNTY does not reimburse for sales taxes paid by the CONSULTANT. The CONSULTANT may obtain a Tax Exempt Certificate from the Travis County Purchasing Office.
- 9.8 If federal funds are used to reimburse costs incurred under this Agreement, the services and all reimbursements will be subject to periodic review by HUD.

SECTION 10 SUSPENSION AND TERMINATION OF AGREEMENT

- 10.1 **SUSPENSION.** The COUNTY may suspend performance of this Agreement at any time for any reason without terminating this Agreement by giving CONSULTANT written Notice of Suspension (a "Notice of Suspension"). The "Effective Date of Suspension" is the date on which CONSULTANT receives the Notice of Suspension, and this date begins the Suspension Period. Performance may be reinstated and this Agreement resumed in full force and effect within 60 days of receipt by the CONSULTANT of written notice of reinstatement from the COUNTY. Upon the Effective Date of Suspension, the CONSULTANT must follow the procedures described below:

- 10.1.1 Upon receipt of a Notice of Suspension, the CONSULTANT must, unless the Notice otherwise directs, immediately begin to phase out and discontinue all services in connection with the performance of this Agreement and must prepare a statement detailing the services performed under this Agreement prior to the Effective Date of Suspension. Copies of all completed or partially completed designs, plans, and specifications prepared under this Agreement prior to the Effective Date of Suspension, including but not limited to the Work Product, must be prepared for possible delivery to the COUNTY upon COUNTY's request.
- 10.1.2 During the Suspension Period, the CONSULTANT may submit the above-referenced statement to the COUNTY for payment of the approved services actually performed under this Agreement, less previous payments.
- 10.2 **TERMINATION FOR CONVENIENCE.** The COUNTY reserves the right to terminate this Agreement for reasons other than default by the CONSULTANT, including for any reason deemed by Commissioners Court to serve the public interest, or resulting from any governmental law, ordinance, regulation, or court order, by delivering to the CONSULTANT a written notice (a "Notice of Termination"), which will take effect on the tenth day following receipt by the CONSULTANT ("Termination for Convenience"). Termination for Convenience will not be made when termination is authorized under any other provisions of this Agreement and Termination for Convenience will not be taken with the intention of awarding the same or similar contract requirements to another source.
- 10.2.1 Upon receipt of a Notice of Termination and prior to the effective date of termination, the CONSULTANT must, unless the Notice of Termination otherwise directs, immediately begin to phase out and discontinue all services in connection with the performance of this Agreement and must proceed to promptly cancel all existing orders and contracts insofar as such orders and contracts are chargeable to this Agreement. Within 30 days after receipt of a Notice of Termination, the CONSULTANT must submit a statement showing in detail the services performed under this Agreement prior to the effective date of termination.
- 10.2.2 Copies of all completed or partially completed designs, plans, specifications and other work product prepared under this Agreement prior to the effective date of termination must be delivered to the COUNTY as a precondition to any final payment due under this Agreement.
- 10.2.3 Upon the above conditions being met, the COUNTY will pay the CONSULTANT for approved services actually performed under this Agreement prior to termination, less previous payments.
- 10.2.4 Failure by the CONSULTANT to submit the required statement described in paragraph 10.2.1 and to comply with the above stated conditions constitutes a waiver by the CONSULTANT of any and all rights or claims to collect the fee that CONSULTANT may rightfully be entitled to for services performed under this Agreement.
- 10.3 **TERMINATION FOR DEFAULT.** Failure by either party to this Agreement to perform its obligations under this Agreement constitutes a breach of this Agreement; and, in the event of

such breach, the other party is entitled to pursue any and all rights and remedies allowed under applicable federal or Texas law (statutory law, case law, rules or regulations). Without limiting the County's right to terminate under Subsection 10.5 hereof, either party may terminate this Agreement for the failure of the other party to perform any provisions of this Agreement, through no fault of the terminating party ("Termination for Default") by delivering written notice of termination (a "Notice of Termination for Default") to the defaulting party. The Notice of Termination for Default will take effect on the tenth day following receipt by the defaulting party. In the event of Termination for Default, the COUNTY and its officials, agents and representatives will not be liable for loss of any profits.

Termination by CONSULTANT:

- 10.3.1 In the event the CONSULTANT exercises its right to terminate for default by the COUNTY, within thirty (30) days after receipt by the COUNTY of the CONSULTANT's Notice of Termination for Default, the CONSULTANT must submit a statement detailing the services performed under this Agreement prior to the effective date of termination.
- 10.3.2 Copies of all completed or partially completed designs, plans, specifications and other work product prepared under this Agreement prior to the effective date of termination must be delivered to the COUNTY as a precondition to any final payment due under this Agreement.
- 10.3.3 Upon the above conditions being met, the COUNTY will pay the CONSULTANT for approved services actually performed under this Agreement prior to termination, less previous payments.
- 10.3.4 Failure by the CONSULTANT to submit the required statement described in paragraph 10.3.1 and to comply with the above stated conditions constitutes a waiver by the CONSULTANT of any and all rights or claims to collect the fee that CONSULTANT may rightfully be entitled to for services performed under this Agreement.

Termination by COUNTY:

- 10.3.5 Upon receipt by the CONSULTANT of a Notice of Termination for Default and prior to the effective date of termination, the CONSULTANT must, unless the Notice of Termination otherwise directs, immediately begin to phase out and discontinue all services in connection with the performance of this Agreement and must proceed to promptly cancel all existing orders and contracts insofar as such orders and contracts are chargeable to this Agreement. Within 30 days after receipt of a Notice of Termination for Default, the CONSULTANT must submit a statement showing in detail the services performed under this Agreement prior to the effective date of termination.
- 10.3.6 Copies of all completed or partially completed designs, plans, specifications and other work product prepared under this Agreement prior to the effective date of

termination must be delivered to the COUNTY as a precondition to any final payment due under this Agreement.

- 10.3.7 Upon the above conditions being met, the COUNTY will pay the CONSULTANT for approved services actually performed under this Agreement prior to termination, less previous payments.
- 10.3.8 Failure by the CONSULTANT to submit the required statement described in paragraph 10.3.5 and to comply with the above stated conditions constitutes a waiver by the CONSULTANT of any and all rights or claims to collect the fee that CONSULTANT may rightfully be entitled to for services performed under this Agreement.
- 10.4 All references to time in this Agreement will be measured in calendar days unless otherwise specified.
- 10.5 **TERMINATION FOR CAUSE.**
- 10.5.1 The County may terminate this Agreement if the Consultant violates the provisions of this Agreement covering the County Ethics Policy or the provisions of this Agreement covering utilities.
- 10.5.2 In addition, the County may terminate this Agreement if the Consultant violates any provision or requirement set forth in this Agreement, including the Exhibits and Attachments hereto, concerning the Historically Underutilized Business Program.
- 10.5.3 Termination by the County for cause shall be effected in the manner prescribed in Paragraph 10.3. hereof.
- 10.6 **CONSULTANT'S DEFAULT.** In accordance with 24 C.F.R § 85.43, the County may declare the Consultant in default by written notice thereof to the Consultant, and terminate the whole or any part of the Agreement for any of the following reasons:
- 10.6.1 Failure to begin the Scope of Services within the time or in the manner specified in the Agreement;
- 10.6.2 Failure to perform the Scope of Services with sufficient labor, equipment, or material to insure the completion of the specified work in accordance with the terms of the Agreement;
- 10.6.3 Unsatisfactory performance of the Scope of Services;
- 10.6.4 Discontinuance of the Scope of Services without approval;
- 10.6.5 Failure to resume the Scope of Services, which has been discontinued, within a reasonable time after notice to do so;
- 10.6.6 Insolvency or bankruptcy;

- 10.6.7 Assignment made for the benefit of creditors;
- 10.6.8 Failure or refusal within ten days after written notice by the Executive Manager or her designee, to make payment or show cause why payment should not be made, for any services rendered or provided in connection with the provision or performance of the Scope of Services;
- 10.6.9 Failure to protect, to repair, or to make good any damage or injury to property;
- 10.6.10 Failure to obtain any permit, license or the cancellation or termination of any permit, license or certification necessary or required to perform or carry out the Scope of Services;
- 10.6.11 Material breach of any provision of the Agreement, which shall include but not be limited to:
 - 10.6.11.1 Failure to comply with any rules, regulations or provisions governing CDBG Programs, or such statutes, regulations, executive orders, and HUD guidelines, policies or directives as may become applicable at any time; or
 - 10.6.11.2 Ineffective or improper use of the CDBG funds provided by the County pursuant to the Agreement; or
- 10.6.12 Misrepresentation or falsification of Consultant's application, financial statements, financial documents or other submissions;
- 10.6.13 Failure to provide or omitting any information required or requested by County relating to the approval of the Agreement; or
- 10.6.14 Misrepresenting, falsifying or omitting information from reports or performance requirements.

SECTION 11 CONSULTANT'S RESPONSIBILITY AND LIABILITY

- 11.1 The CONSULTANT covenants to undertake no task in which a professional license or certificate is required unless CONSULTANT or someone under CONSULTANT's direction is appropriately licensed. In the event such licensed individual's license expires, is revoked, or is canceled, the CONSULTANT must inform the COUNTY of such event within five working days.
- 11.2 The CONSULTANT is responsible for conformance with applicable federal and state laws, COUNTY permitting requirements, and city ordinances currently in effect. Federal and state laws, rules, regulations and codes include but are not limited to:
 - 11.2.1 Workers Compensation laws;
 - 11.2.2 Minimum and maximum salary and wage statutes and regulations, including but not

limited to:

- (A) Fair Labor Standards Act of 1938, as amended;
- (B) Equal Pay Act of 1963, PL 88-38; and
- (C) all applicable regulations implementing the above laws;

11.2.3 Non-discrimination statutes and regulations, including but not limited to:

- (A) Title VII of the Civil Rights Act of 1964, as amended;
- (B) Section 504 of the Rehabilitation Act of 1973, as amended;
- (C) The Age Discrimination Act of 1975, as amended; and
- (D) all applicable regulations implementing the above laws;

11.2.4 Licensing laws and regulations;

11.2.5 Compliance with Texas Accessibility Standards ("TAS") and ADA requirements, issued by the Texas Department of Licensing and Regulation, under the Architectural Barriers Act, or other applicable Texas law;

11.2.6 Requirements under the Architectural Barriers Act and the Americans with Disabilities Act set forth in 24 C.F.R. Section 570.614;

11.2.7 All applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. § 1857h-4, Section 508 of the Clean Water Act (33 U.S.C. § 1368), and Executive Order 11738;

11.2.8 Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (PUB L 94-163, 89 Stat. 871) codified at 42 U.S.C.A. Section 6321 et seq.;

11.2.9 National Environmental Policy Act ("NEPA"), as amended, including Environmental Protection Agency regulations (40 C.F.R. Part 15), applicable HUD regulations set forth in 24 C.F.R. Parts 50 and 58 including authorities cited therein, and National Historic Preservation Act of 1966, including Federal Historic Preservation Regulations (36 C.F.R. Part 800), which require environmental clearance of federal aid projects; and in connection with NEPA requirements, Consultant is responsible for the preparation of NEPA documents required for environmental clearance of the Project covered hereunder;

11.2.10 24 C.F.R. Section 5.105, including applicable authorities cited therein, as well as applicable provisions of 24 C.F.R. Part 58, including Section 58.5 and applicable authorities cited therein and Section 58.6 and applicable authorities cited therein; and

11.2.11 In addition to the applicable laws referenced above, Consultant must also adhere to compliance requirements in other applicable CDBG regulations.

When required, the Consultant shall furnish the County and/or HUD with satisfactory proof of its compliance herewith.

- 11.3 Acceptance and Approval of the Work Product by the COUNTY does not release the CONSULTANT of any responsibility or liability for the accuracy and competency of CONSULTANT's designs, working drawings, specifications, or other documents or work performed under this Agreement. Neither Acceptance nor Approval by the COUNTY constitutes an assumption of responsibility or liability by the COUNTY for any defect, error, or omission in the designs, working drawings, specifications, or other documents prepared by the CONSULTANT.
- 11.4 Notwithstanding anything in this AGREEMENT to the contrary, the CONSULTANT must perform all services and responsibilities required of the CONSULTANT under this Agreement using at least that standard of care which a reasonably prudent CONSULTANT in Travis County, Texas, would use in similar circumstances. The CONSULTANT must perform the duties set forth in this Agreement in a professional manner and nothing in this Agreement is to be construed to relieve the CONSULTANT of this duty.
- 11.5 Consultant's personnel assigned to perform services under this Agreement must possess all the expertise, knowledge and experience needed to perform the work assigned to them. Any employee of the CONSULTANT, who in the opinion of the COUNTY is incompetent or whose conduct becomes detrimental to the work or coordination with the COUNTY, must upon the COUNTY's request be immediately removed from association with the Project. If the Consultant removes key personnel from the Project, the Consultant must notify the County in writing as soon as possible, but no later than three business days after such removal, and give the County a reason for such removal. The County must be satisfied that the new key personnel is qualified to provide services hereunder. If the County determines that the new key personnel is not acceptable, the Consultant may not use that person in that capacity and must replace him or her with an individual satisfactory to the County within 45 calendar days.
- 11.6 The CONSULTANT must place his Texas Professional CONSULTANT's seal of endorsement on all documents and engineering data furnished to the COUNTY, as required by law.
- 11.7 The CONSULTANT is an independent contractor under this Agreement. Neither the CONSULTANT nor any officer, agent, servant, or employee of the CONSULTANT will be classified as an employee or servant of COUNTY.
- 11.8 **INDEMNIFICATION.** THE CONSULTANT AGREES TO AND MUST INDEMNIFY AND HOLD HARMLESS COUNTY AND ITS OFFICIALS, AGENTS, AND EMPLOYEES, FROM AND AGAINST ANY AND ALL CLAIMS, LOSSES, DAMAGES, ACTIONS, SUITS, AND LIABILITY OF ANY KIND, WHETHER MERITORIOUS OR NOT, INCLUDING, WITHOUT LIMITATION, ALL EXPENSES OF LITIGATION, COURT COSTS, AND ATTORNEY'S FEES FOR INJURY TO OR DEATH OF ANY PERSON, OR FOR DAMAGE TO ANY PROPERTY ARISING IN WHOLE OR IN PART FROM ANY NEGLIGENT ACT, NEGLIGENT ERROR, OR NEGLIGENT OMISSION OF THE CONSULTANT OR ANY OF ITS EMPLOYEES, AGENTS, REPRESENTATIVES, OR SUBCONTRACTORS ON ACCOUNT OF, ARISING OR RESULTING FROM, DIRECTLY OR INDIRECTLY, THE PERFORMANCE OF THIS AGREEMENT.
- 11.8.1 If any claim, or other action, that relates to the CONSULTANT's performance under

this Agreement, including proceedings before an administrative agency, is made or brought by any person, firm, corporation, or other entity against the CONSULTANT, the CONSULTANT must give written notice to County of the following information:

- (a) the existence of the claim, or other action, within ten working days after being notified of it;
- (b) the name and address of the person, firm, corporation, or other entity that made a claim, or that instituted any type of action or proceeding;
- (c) the alleged basis of the claim, action, or proceeding;
- (d) the court or administrative tribunal, if any, where the claim, action or proceeding was instituted; and
- (e) the name or names of any person against whom this claim is being made.

11.8.2 Except as otherwise directed, the CONSULTANT must furnish to County copies of all pertinent papers received by the CONSULTANT with respect to making these claims or actions and all court pleadings related to the defense of these claims or actions.

11.9 **DISPUTES AND APPEALS:** The Purchasing Agent acts as the County representative in the issuance and administration of this contract. In case of a dispute, any document, notice, or correspondence not issued by or to the Purchasing Agent, or other authorized County person, is void unless otherwise stated in this contract. If the CONSULTANT does not agree with any document, notice, or correspondence issued by the Purchasing Agent, or other authorized County person, the CONSULTANT must submit a written notice to the Purchasing Agent, or other authorized County person, within ten calendar days after receipt of the document, notice, or correspondence, outlining the exact point of disagreement in detail. If the matter is not resolved to the Consultant's satisfaction, Consultant may submit a Notice of Appeal to the Commissioners Court, through the Purchasing Agent, if the Notice is submitted within ten calendar days after receipt of the unsatisfactory reply. Consultant then has the right to be heard by Commissioners Court.

11.10 **OTHER DISPUTES.** The Consultant shall be responsible for the settlement of all contractual and administrative issues arising out of any procurement made by the Consultant in support of the services authorized under this Agreement.

11.11 **CONFLICT OF INTEREST QUESTIONNAIRE.**

11.11.1 If required under Chapter 176 Texas Local Government Code, the Consultant must file a completed Conflict of Interest Questionnaire in accordance with the requirements of that Chapter. Within the applicable, authorized time period prescribed in Chapter 176, Consultant must file the completed Conflict of Interest Questionnaire with the Travis County Clerk, Recording Division, 5501 Airport Blvd., Austin, Texas 78751. The Consultant must file an updated, completed questionnaire with the Travis County Clerk not later than the seventh business day after the date of an event that would make a statement in the questionnaire incomplete or inaccurate. The Consultant should note

that the law requires that the County provide access to a filed Questionnaire on the official Travis County Internet website. However, the law does not require that the County release information which is excepted from disclosure under the Texas Public Information Act.

11.11.2 As between County and Consultant, Consultant shall be solely responsible for the preparation of its Conflict of Interest Questionnaire, the accuracy and completeness of the contents contained therein and ensuring compliance with all applicable requirements of Chapter 176 of the Local Government Code.

11.11.3 This Agreement is also subject to the conflict of interest provisions set forth in 24 C.F.R. Section 85.36, Subsection (b), Paragraph (3).

SECTION 12 OWNERSHIP OF DOCUMENTS

12.1 The CONSULTANT must furnish the County with Work Product as requested, whether or not they are complete at the end of the Project, or upon suspension or termination of this Agreement, as provided herein. The CONSULTANT has the right to retain copies of the Work Product for its records.

12.2 The Work Product, and any other documents, including estimates, computer tapes, graphic files, tracings, calculations, analyses, reports, specifications, field notes, and data prepared by the CONSULTANT in performance of this Agreement, together with all intellectual property and proprietary rights in and to all such documents, will upon creation become the sole and exclusive property of the COUNTY and upon completion of the Project must be delivered to the COUNTY in an organized fashion with the CONSULTANT retaining a copy at its own expense. HUD reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish or otherwise use, and authorize others to use, for federal government purposes: (a) the copyright and any work developed under this Agreement; and (b) any rights of copyright to which County or Consultant purchases ownership with grant support.

12.3 Any reuse by the CONSULTANT of any such documents described in paragraphs 12.1 and 12.2 without the specific and prior written consent of the COUNTY or HUD will be at the CONSULTANT's sole risk and without liability or legal exposure to the COUNTY. Should this Agreement be terminated prior to completion of the Project, the CONSULTANT is not liable for the COUNTY or HUD's use of partially completed designs, plans, or specifications on this Project or any other Project.

12.4 The CONSULTANT is not responsible for any use or any modifications to the documents described in paragraphs 12.1 and 12.2 performed by any other entity, without the specific written consent of the CONSULTANT.

SECTION 13 MAINTENANCE OF AND RIGHT OF ACCESS TO RECORDS

13.1 The Consultant shall maintain all books, documents, papers, accounting records, other records and other evidence directly pertaining to services provided under this Agreement, including the

Exhibits and Attachments hereto, and costs and expenses of such services. With respect to accounting records, the Consultant shall maintain appropriate accounting records of costs, expenses, and payrolls of employees working on the Project, including source documentation such as cancelled checks, paid bills, payrolls, time and attendance records if applicable, Contract award documents, and other documentation as required by County. Consultant shall give, and shall require all Subcontractors to give, County, HUD, the Comptroller General of the United States, other authorized Federal officials, and any of their duly authorized representatives access to and the right to examine, free of charge, all books, accounts, records, reports, files, and other papers, things, or property belonging to or in use by the Consultant pertaining to this agreement at reasonable times and for reasonable periods for the purposes of making audits, examinations, excerpts, and transcriptions. These rights to access shall continue as long as the records are required to be retained by the Consultant, and for any additional time period that the records are retained by the Consultant. These rights shall include accessibility for purposes of investigation to ascertain compliance with the rules, regulations, and provisions stated herein.

The records described in Subsection 13.1 above shall be maintained during the contract period and for four years after the last year the Project is reported in the CDBG Consolidated Annual Performance Evaluation Report and after all other pending matters concerning this Agreement have been closed, whichever is later. The County will notify the Consultant regarding the last year the Project is reported in the CDBG Consolidated Annual Performance Evaluation Report.

SECTION 14 MISCELLANEOUS

- 14.1 **VENUE**. This Agreement is governed by and will be construed in accordance with the laws of the United States of America and the State of Texas, and all obligations under this Agreement are performable in Travis County, Texas. Venue for any dispute arising out of this Agreement will lie in the appropriate court of Travis County, Texas.
- 14.2 **SEVERABILITY**. If any portion or portions of this Agreement are ruled invalid, illegal, or unenforceable in any respect by a court of competent jurisdiction, the remainder of it will remain valid and binding.
- 14.3 **EQUAL OPPORTUNITY IN EMPLOYMENT**. The CONSULTANT agrees, during the performance of the services under this Agreement, to comply with the equal opportunity in employment provisions cited in Exhibit 4, attached hereto and made a part hereof.
- 14.4 **CERTIFICATE OF CONSULTANT**. The CONSULTANT certifies that neither the CONSULTANT nor any members of the CONSULTANT's firm has:
- 14.4.1 Employed or retained for a commission, percentage, brokerage, contingency fee, or other consideration, any firm or person (other than a bona fide employee working solely for the CONSULTANT) to solicit or secure the services provided by this Agreement.

- 14.4.2 Agreed, as an expressed or implied condition for obtaining this Agreement, to employ or retain the services of any firm or person other than in connection with carrying out the services to be performed under this Agreement.
- 14.4.3 Paid or agreed to pay to any firm, organization, or person (other than bona fide employees working solely for the CONSULTANT) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out the services provided under this Agreement.
- 14.4.4 The CONSULTANT further agrees that this certification may be furnished to any local, state or federal governmental agencies in connection with this Agreement and for those portions of the Project involving participation of agency grant funds and is subject to all applicable state and federal, criminal and civil laws.
- 14.5 **BIDDING EXEMPTION.** This Agreement is exempted from the bidding requirements of the County Purchasing Act pursuant to Section 262.024(a)(4) of the Local Government Code as this is a contract for professional services.
- 14.6 **NOTICE.** Any notice required or permitted to be given under this Agreement by one party to the other must be in writing and must be given and deemed to have been given immediately if delivered in person to the address set forth in this section for the party to whom the notice is given, or on the third day following mailing if placed in the United States mail, postage prepaid, by registered or certified mail with return receipt requested, addressed to the party at the address set forth in this section.

The address of the COUNTY for all purposes under this Agreement, unless such notice is specifically directed otherwise, is:

COUNTY: Cyd V. Grimes (or successor)
Travis County Purchasing Agent
P.O. Box 1748
Austin, Texas. 78767

with copies to (registered or certified mail with return receipt is not required):

Steven M. Manilla, P.E. (or successor)
Travis County Transportation and Natural Resources, County Executive
P.O. Box 1748
Austin, Texas 78767

The address of the CONSULTANT for all purposes under this Agreement, unless such notice is specifically directed otherwise, is:

Brown & Gay Engineers, Inc.
7000 North Mopac, Suite 300
Austin, TX 78731

14.7 INSURANCE. The CONSULTANT agrees during the performance of the services under this Agreement to comply with the insurance requirements set forth in Exhibit 5, attached hereto and made a part hereof.

14.8 FORFEITURE OF AGREEMENT. The CONSULTANT will forfeit all benefits of this Agreement and the COUNTY will retain all performance by the CONSULTANT and recover all consideration, or the value of all consideration, paid to the CONSULTANT pursuant to this Agreement if:

- (i) The CONSULTANT was doing business at the time of submitting its Qualifications Statement or had done business during the 365-day period immediately prior to the date on which its Qualifications Statement was due with one or more Key Contracting Persons; or
- (ii) The CONSULTANT does business with a Key Contracting Person after the date on which the Qualifications Statement that resulted in this Agreement and prior to full performance of this Agreement.

14.8.1 “Was doing business” and “has done business” mean:

- (a) Paying or receiving in any calendar year any money valuable thing which is worth more than \$250 in the aggregate in exchange for personal services or for purchase of any property or property interest, either real or personal, either legal or equitable; or
- (b) Loaning or receiving a loan of money; or goods or otherwise creating or having in existence any legal obligation or debt with a value of more than \$250 in the aggregate in a calendar year;
- (c) but does not include:
 - (1) any retail transaction for goods or services sold to a Key Contracting Person at a posted, published, or marked price available to the general public;
 - (2) any financial services product sold to a Key Contracting Person for personal, family, or household purposes in accordance with pricing guidelines applicable to similarly situated individuals with similar risks as determined by the CONSULTANT in the ordinary course of its business; or
 - (3) a transaction for a financial service or insurance coverage made on behalf of the CONSULTANT if the CONSULTANT is a national or multinational corporation by an agent, employee or other representative of the CONSULTANT who does not know and is not in a position that he or she should have known about the Contract.

14.8.2 “Key Contracting Person” means any person or business listed in listed in Attachment 1 to Exhibit 6, attached hereto and made a part hereof.

- 14.9 PURCHASE ORDER.** The CONSULTANT and its contractors, subcontractors and vendors must provide goods and services using the purchase order method. A purchase order number will be assigned by the designated representative of the Travis County Purchasing Office. The CONSULTANT and its contractors, subcontractors and vendors must reference the Agreement number and the purchase order number on all invoices to the Travis County Transportation and Natural Resources Department. The terms and conditions contained elsewhere in this Agreement prevail over different or contrary terms in any purchase order. All invoices submitted by the CONSULTANT and its contractors, subcontractors, and vendors must reference the purchase order number on the invoice. The COUNTY will not pay invoices that are in excess of the amount authorized by the purchase order.
- 14.10 PAYMENTS.** Each payment made hereunder must be allowable under Title 24 C.F.R. Section 85.22 and 2 C.F.R. Part 225 (including Appendices A and B thereto) and must be consistent with Attachment A and Attachment B. Payments hereunder (including reimbursements) also may be subject to applicable provisions of Appendices C, D and E to Title 2 C.F.R. Part 225. Payment will be made by check or warrant by upon satisfactory delivery and acceptance of items and submission of a correct and complete invoice to the address below for orders placed by the Purchasing Agent, or as indicated on Purchase Orders placed by other authorized COUNTY offices and/or departments.

Travis County Transportation and Natural Resources
P.O. Box 1748
Austin, Texas 78767

- 14.10.1** In order to be considered "correct and complete," an invoice must include at least the following information:
- (a) Name, address, and telephone number of the CONSULTANT and similar information in the event payment is to be made to a different address,
 - (b) County Agreement, Purchase Order, or Delivery Order number,
 - (c) Identification of items or services as outlined in the Agreement,
 - (d) Quantity or quantities, applicable unit prices, total prices, and total amount, and
 - (e) Any additional payment information which may be called for by this Agreement.

The Consultant must also submit a statement with each invoice showing the percentage completion of the work accomplished during the preceding 30-day period and the percentage completion to date, as well as any additional written information requested by the County to document the progress of the work.

14.10.2 DISBURSEMENTS TO PERSONS WITH OUTSTANDING DEBTS PROHIBITED.

- (a) In accordance with Section 154.045 of the Local Government Code, if notice of indebtedness has been filed with the County Auditor or County Treasurer evidencing the indebtedness of the CONSULTANT to the State, the COUNTY or a salary fund, a warrant may not be drawn on a COUNTY fund in favor of the CONSULTANT, or an agent or assignee of the CONSULTANT until:
 - (1) the County Treasurer notifies the CONSULTANT in writing that the debt is outstanding; and

- (2) the debt is paid.
- (b) "Debt" includes delinquent taxes, fines, fees, and indebtedness arising from written agreements with the COUNTY.
- (c) COUNTY may apply any funds COUNTY owes the CONSULTANT to the outstanding balance of debt for which notice is made under section 14.10.2(a) above, if the notice includes a statement that the amount owed by the COUNTY to the CONSULTANT may be applied to reduce the outstanding debt.
- 14.10.3 Payments made under this Agreement are subject to cost principles set forth in Title 24 C.F.R. Section 85.22 and 2 C.F.R. Part 225 (including Appendices A and B thereto and applicable provisions of Appendices C, D and E). In addition, this Agreement is subject to the Texas Prompt Payment Act, Chapter 2251, Texas Government Code. In the event of a clear conflict between Title 24 C.F.R. Section 85.22 or Title 2 C.F.R. Part 225 (including Appendices A and B thereto) and the Prompt Payment Act, applicable provisions of 24 C.F.R. Section 85.22 or 2 C.F.R. Part 225, as the case may be, shall control.
- 14.10.4 Consultant agrees that payment to any of its contractors, subcontractors or subconsultants shall be the responsibility of the Consultant. Consultant must pay its contractors, subcontractors, and subconsultants for satisfactory performance of their contracts no later than ten days from the Consultant's receipt of payments from County hereunder.
- 14.10.5 Consultant shall complete and submit forms, reports, information or data, as required by the County for compliance with HUD regulations.
- 14.10.6 The Consultant is prohibited from placing a lien on County property. This prohibition shall be placed in all design professional subcontracts.
- 14.10.7 INTEREST ON OVERDUE PAYMENTS. Accrual and payment of interest on overdue payments is governed by Chapter 2251 of the Texas Government Code.
- 14.11 PREVAILING WAGES. To the extent that 42 U.S.C.A. § 1437j applies to the project covered hereunder and in accordance with Section 1437j, the Consultant shall pay not less than the wages prevailing in the locality, as determined by HUD, to all architects, technical engineers, draftsmen, and technicians.
- 14.12 PROPERTY TAXES. Notwithstanding anything to the contrary herein, if the CONSULTANT is delinquent in the payment of property taxes at the time of providing the services rendered under this Agreement, the CONSULTANT hereby assigns any payments to be made for services rendered hereunder to the Travis County Tax Assessor-Collector for the payment of said delinquent taxes. The terms of this Section apply only insofar as allowed by the Grant.
- 14.13 TAXPAYER IDENTIFICATION. The CONSULTANT must provide the COUNTY with an Internal Revenue Form W-9 Request for Taxpayer Identification Number and Certification that is completed in compliance with the Internal Revenue Code, its rules and regulations, and a

statement of entity status in a form satisfactory to the County Auditor before any funds are payable under this Agreement.

14.14 SUCCESSORS AND ASSIGNS. This Agreement is binding upon and inures to the benefit of the COUNTY and the CONSULTANT and their respective successors, executors, administrators, and assigns. Neither the COUNTY nor the CONSULTANT may assign, sublet, or transfer their interest in or obligations under this Agreement without the written consent of the other party hereto. IT IS EXPRESSLY ACKNOWLEDGED THAT NO OFFICIAL, EMPLOYEE, AGENT, OR REPRESENTATIVE OF THE COUNTY HAS ANY AUTHORITY, EITHER EXPRESS OR IMPLIED, TO AMEND THIS AGREEMENT EXCEPT PURSUANT TO SUCH EXPRESS AUTHORITY AS MAY BE GRANTED BY THE COMMISSIONERS COURT.

14.15 SMALL AND MINORITY FIRMS AND WOMEN'S BUSINESS ENTERPRISES.

14.15.1 The County will take all affirmative steps to assure that small and minority firms and women's business enterprises are used when possible.

14.15.2 These affirmative steps include:

- i. placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- ii. assuring that small and minority businesses and women's business enterprises are solicited whenever they are potential sources;
- iii. dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- iv. establishing delivery schedules, where the requirements permit, which encourage participation by small and minority businesses, and with women's business enterprises; and
- v. using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce.

14.15.3 If subcontracts are to be let, the Consultant shall take the affirmative steps listed in Subsection 14.15.2 above, to assure that small and minority firms and women's business enterprises are used when possible.

14.15.4

14.15.4.1 To assure that small and minority businesses and women's business enterprises are used when possible, the County's Historically Underutilized Business Program (HUB) will be followed. In consideration of award of this Agreement to the CONSULTANT, the CONSULTANT agrees to maintain a subconsultant relationship with any HUB Subconsultants identified on the HISTORICALLY UNDERUTILIZED BUSINESS (HUB) DECLARATION Form provided with the CONSULTANT's

Qualifications Statement and attached hereto as Exhibit 7 and made a part hereof. Identification of this relationship should be accomplished through completion of a Notice of Intent (NOI) to Subcontract with HUBs Form, attached hereto as part of Exhibit 7 and made a part hereof. The NOI form should be signed by both the Consultant and HUB subconsultant, with a separate form submitted for each subconsultant, and provided to the Purchasing Agent after Notification of Contract Award but before beginning performance of the contract. The CONSULTANT must make good faith efforts to meet or exceed the HUB participation goals in the Professional Services category for an overall 15.8% for Minority-Owned Business Enterprises (MBE) and an Overall 15.8% for Woman-Owned Business Enterprises (WBE). *(Sub-goals: 1.9% African-American, 9.0% Hispanic-American, 4.9% Native/Asian-American)* of the Contract Sum. For purposes of this Agreement, all references to "HUB" means "certified HUB." To be considered as a "certified HUB," the subcontractor must have been certified by, and hold a current and valid certification with, any of the following three agencies: (1) The State of Texas; (2) the City of Austin; or (3) the Texas Unified Certification Program. Minimum good faith efforts include, to the extent practical and consistent with standard and prudent industry practices, the following:

- (a) dividing the Work into the smallest feasible portions, to allow for maximum HUB subcontractor participation;
- (b) providing to HUBs that exhibited genuine interest in bidding on a subcontract adequate information regarding the Project (i.e. plans, specifications, scope of work, bonding and insurance requirements and a point of contact within CONSULTANT's organization);
- (c) notifying, in writing, three or more HUBs for each scope of work, allowing no less than five working days prior to bid submission, of the planned work to be subcontracted;
- (d) providing notice of opportunities to minority or women trade organizations or development centers to assist in identifying potential HUBs by disseminating the information to their members/participants.

14.15.4.2 The CONSULTANT may go beyond the good faith efforts listed above when soliciting HUB subcontractors.

14.15.5 During the term of this Agreement, the CONSULTANT is encouraged to inform the COUNTY of any problems anticipated or encountered, and of any other concerns, regarding the utilization of HUBs, M/WBEs and DBEs.

14.15.6 During the performance of this Agreement, the Consultant is requested to provide payment information on each HUB subconsultant using the attached HUB Subcontractor Payment Report Form, attached hereto as part of Exhibit 7 and made a part hereof. This form should be submitted with each invoice from which a HUB subconsultant will be paid

14.15.7 No changes or substitutions shall be made for the HUB subconsultants unless such substitution is also a HUB. Any substitution or changes must have prior approval of the Travis County Purchasing Agent or HUB Coordinator. To request a change, the HUB Subcontractor/Subconsultant Change Form, attached hereto as part of Exhibit 7, must

be completed and submitted to the County Purchasing Agent. Should there not be a HUB firm available as a replacement, Consultant may request an exemption from this requirement from the Purchasing Agent or HUB Coordinator. For additional information, refer to the completion instructions on the forms.

14.15.8 The COUNTY encourages the fostering of mentor/protégé relationships through the Community Mentor Protégé Initiative, and Travis County Purchasing Office HUB staff will cooperate with and assist the CONSULTANT in initiating and/or developing such efforts.

14.16 **FUNDING OUT.** Consultant acknowledges that this Agreement is supported, in whole or in part, by federal funds provided through HUD and that HUD may reduce, adjust, or withdraw funding for future Program years. Notwithstanding any provision to the contrary in this Agreement, in the event that either no funds or insufficient funds are appropriated, whether by the County or HUD, for any payments due under this Agreement for the period covered by such budget or appropriation, this Agreement will terminate without penalty to the COUNTY or HUD.

14.17 **FUNDING.**

14.17.1 It is anticipated that funds for payment on this Agreement will come from the U.S. Department of Housing and Urban Development.

14.17.2 **THE COUNTY CANNOT GUARANTEE THE AVAILABILITY OF FUNDS, AND ENTERS INTO THIS AGREEMENT ONLY TO THE EXTENT THAT COUNTY FUNDS AND FEDERAL FUNDS ARE MADE AVAILABLE. THERE IS RISK INVOLVED WITH THIS AGREEMENT. THE COUNTY'S OBLIGATIONS UNDER THIS AGREEMENT ARE CONTINGENT UPON THE ACTUAL RECEIPT BY THE COUNTY OF SUFFICIENT FEDERAL FUNDS. IF SUFFICIENT FEDERAL FUNDS ARE NOT AVAILABLE, THE COUNTY WILL NOTIFY THE CONSULTANT IN WRITING WITHIN A REASONABLE TIME AFTER SUCH FACT IS DETERMINED. THE COUNTY WILL THEN TERMINATE THIS AGREEMENT AND WILL NOT BE LIABLE FOR THE FAILURE TO MAKE ANY PAYMENT TO THE CONSULTANT UNDER THIS AGREEMENT.**

14.18 **NON-WAIVER OF DEFAULT.** No payment, act, or omission by the COUNTY may constitute or be construed as a waiver of any breach or default of the CONSULTANT which then exists or may subsequently exist. All rights of the COUNTY under this Agreement are specifically reserved and any payment, act or omission will not impair or prejudice any remedy or title to the COUNTY under it. Any right or remedy in this Agreement will not preclude the exercise of any other right or remedy under this Agreement or under any law, except as expressly provided herein, nor will any action taken in the exercise of any right or remedy be deemed a waiver of any other rights or remedies.

14.19 **MEDIATION.** When mediation is acceptable to both parties in resolving a dispute arising under this Agreement, the parties agree to use a mutually agreed upon mediator, or a person appointed by a court of competent jurisdiction, for mediation as described in Section 154.023 of the Texas Civil Practice and Remedies Code. Unless both parties are satisfied with the

result of the mediation, the mediation will not constitute a final and binding resolution of the dispute. All communications within the scope of the mediation must remain confidential as described in Section 154.073 of the Texas Civil Practice and Remedies Code, unless both parties agree, in writing, to waive the confidentiality.

14.20 OFFICIALS NOT TO BENEFIT. If a member of the Commissioners Court belongs to a cooperative association, the COUNTY may purchase equipment or supplies from the association only if no member of the Commissioners Court will receive a pecuniary benefit from the purchase, other than as reflected in an increase in dividends distributed generally to members of the association.

14.21 CONSULTANT CERTIFICATIONS:

14.21.1 The CONSULTANT certifies that the CONSULTANT (i) is a duly qualified, capable and otherwise bondable business entity, (ii) is not in receivership and does not contemplate same, (iii) has not filed for bankruptcy, and is not currently delinquent with respect to payment of property taxes within Travis County, and (iv) is duly licensed in the State of Texas to perform the work described in this Agreement.

14.21.2 The CONSULTANT further represents and warrants that (i) all applicable copyrights, patents and licenses which may exist on materials used in this Agreement have been adhered to and (ii) the COUNTY will not be liable for any infringement of those rights and any rights granted to the COUNTY will apply for the duration of this Agreement. The CONSULTANT must indemnify the COUNTY, its officers, agents and employees from all claims, losses, damages, causes of action and liability of every kind including expenses of litigation, and court costs and attorney fees for damages to any person or property arising in connection with any alleged or actual infringement of existing patents, licenses of copyrights applicable to materials used in this Agreement.

14.21.3 The Consultant certifies that it presently has adequate personnel in its employment for performance of the services required under this Agreement, including the Exhibits and Attachments hereto, or it will be able to obtain such personnel from sources other than the County.

14.21.4 The Consultant represents that it has no conflict of interest that would in any way interfere with its or its employees' performance of services with the County.

14.21.5 The Consultant certifies by executing this Agreement that it has no financial or other interest in the outcome or conclusions stated in the Environmental Impact Statement or Environmental Assessment Statement prepared by Consultant hereunder.

14.22 CIVIL RIGHTS/ADA COMPLIANCE

14.22.1. The CONSULTANT must provide all services and activities required in a manner that would comply with the Civil Rights Act of 1964, as amended, the Rehabilitation Act of 1973, Public Law 93-1122, Section 504, and with the

provisions of the Americans With Disabilities Act of 1990, Public Law 101-336 [S.933] as if the CONSULTANT were an entity bound to comply with these laws. The CONSULTANT must not discriminate against any employee or applicant for employment based on race, religion, color, sex, national origin, age or handicapped condition.

- 14.22.2 The Consultant shall comply with 42 U.S.C.A Section 53.09 and 24 C.F.R. Parts 1, 6, and 8 as they relate to no discrimination Executive Order 11246 titled "Equal Employment Opportunity" as amended by Executive Order 11375 (41 C.F.R. 60) and all other applicable federal, state and local Equal Employment Opportunity and affirmative action rules, regulations and laws.
- 14.22.3 The Consultant, with regard to work performed by it during the Agreement, shall not discriminate on the grounds of race, color, sex, age, religion, national origin or disability.
- 14.22.4 In all solicitations either by competitive bidding or negotiation made by the Consultant for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor, subconsultant or supplier shall be notified by the Consultant of the Consultant's obligations under this Agreement and the regulations relevant to non-discrimination on the grounds of race, color, sex, age, religion, national origin, age or disability.
- 14.22.5 The Consultant shall provide all information and reports necessary for the County to comply with applicable HUD regulations and shall permit access to its books, records, accounts, other sources of information, and facilities as may be determined by HUD or the County to be pertinent to ascertain compliance with HUD regulations.
- 14.22.6 Where any information required of the Consultant is in the exclusive possession of another who fails or refuses to furnish this information, Consultant shall so certify to the County and shall set forth what efforts it has made to obtain the information.
- 14.22.7 In the event of Consultant's non-compliance with the non-discrimination provisions of this Agreement, the County shall impose such contract sanctions as the County may determine to be appropriate, including, but not limited to:
- (a) Withholding of payments to the Consultant under this Agreement until the Consultant complies; and/or
 - (b) Cancellation, termination, or suspension of this Agreement, in whole or in part.

14.23 **GRATUITIES.** The COUNTY may terminate this Agreement if it is found that gratuities of any kind, including entertainment, or gifts were offered or given by the CONSULTANT or any agent or representative of the CONSULTANT, to any County Official or employee with a view toward securing favorable treatment with respect to this Agreement. If this Agreement is terminated by the COUNTY pursuant to this provision, the COUNTY will be entitled, in addition to any

other rights and remedies, to recover from the CONSULTANT at least three times the cost incurred by CONSULTANT in providing the gratuities.

14.24 CERTIFICATION OF ELIGIBILITY TO RECEIVE FEDERAL FUNDS/DEBARMENT CERTIFICATIONS.

14.24.1 Certification under this Section provides for compliance with certification requirements. under CFR Part 84.13(a) and 24 CFR Part 24. The Consultant, by signing this Contract, hereby certifies that, to the best of its knowledge and belief, it and its principals:

- (a) are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by and Federal department or agency.
- (b) have not within a three-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph 14.24.1(b); and
- (d) have not within a three year period preceding this Contract had one or more public transactions (Federal, State or local) terminated for cause or default.

14.24.2 Where Consultant is unable to certify to any of the statements in this Section, Consultant shall provide an explanation of such inability prior to the effective date of this Contract for County's consideration and evaluation with the understanding that such may result in termination of this Contract by County.

14.24.3 In the event of placement on the list between the time of bid/proposal/statement submission and time of contract award, the bidder/proposer shall immediately notify the Travis County Purchasing Agent.

14.24.4 Placement of Consultant on the federal government's list of suspended, ineligible, or debarred contractors, false certification, or failure to notify County as required in this Subsection may result in County's termination of this Agreement for default.

14.24.5 The Consultant shall provide to the County the certification in Exhibit 8 (Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion for Covered Contracts) in accordance with 24 C.F.R. Part 24 (Debarment and Suspension).

14.25 LOBBYING CERTIFICATION.

14.25.1 The limitation on Use of Appropriated Funds to Influence Certain Federal Contracting and Financial Transactions Act, 31 U.S.C. Section 1352, provides in part that no appropriated funds may be expended by recipient of a federal contract, grant, loan, or cooperative agreement to pay any person, including the Consultant, for influencing or attempting to influence an officer or employee of Congress in connection with any of the following covered federal actions:

- 14.25.1.1** the awarding of any federal grant;
- 14.25.1.2** the making of any federal grant;
- 14.25.1.3** the making of any federal loan;
- 14.25.1.4** the entering into of any cooperative agreement; and
- 14.25.1.5** the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

14.25.2 In executing this Agreement, the signatory certifies to the best of his or her knowledge and belief that:

14.25.2.1 No federal appropriated funds have been paid or will be paid by or on behalf of the parties to any person for influencing or attempting to influence an officer or employee of any federal 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 any extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

14.25.2.2 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, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

14.25.3 The Consultant must include the language in 14.25.2 in all contracts and subcontracts between Consultant and its contractors, subcontractors, subconsultants, agents, or representatives.

14.25.4 The Consultant and its contractors, subcontractors and subconsultants, as applicable, shall complete the Disclosure Form titled "Disclosure Form to Report Lobbying" set forth in Appendix B to Title 24 C.F.R. Part 87 in accordance with its instructions, as set forth in Exhibit 9 hereto. In accordance with 24 C.F.R. Section 87.110(c), the Consultant, and its contractors, subcontractors, or subconsultants, as applicable, shall file a Disclosure Form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained in any Disclosure Form previously filed by such person. This

Agreement is subject to the provisions set forth in 24 C.F.R. Section 87.110 and all other applicable provisions of 24 C.F.R. Part 87. Any person who fails to file or amend the Disclosure Form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

14.26 MONITORING. The COUNTY reserves the right to perform periodic on-site monitoring of the CONSULTANT's compliance with the terms of this Agreement and of the adequacy and timeliness of the CONSULTANT's performance under this Agreement. After each monitoring visit, the COUNTY will provide the CONSULTANT with a written report of the monitor's findings. If the report notes deficiencies in the CONSULTANT's performances under the terms of this Agreement, it will include requirements and deadlines for the correction of those deficiencies by the CONSULTANT. The CONSULTANT must take action specified in the monitoring report prior to the deadlines specified.

14.27 INCORPORATION OF EXHIBITS, ATTACHMENTS, AND APPENDICES.

14.27.1 All of the exhibits, attachments, and appendices referred to in this Agreement are incorporated by reference as if set forth verbatim herein.

14.27.2 The following are the exhibits, attachments, and appendices to this Agreement:

- (a) Exhibit 1 Compensation for Professional Services and Schedule of Payments
- (b) Exhibit 2: Hourly Rates.
- (c) Exhibit 3: Project Schedule
 - Attachment 1: Performance Schedule:
 - Attachment 2: Utility Relocation Services
 - Attachment 3 Construction Administration Services
- (d) Exhibit 4: Equal Opportunity in Employment
- (e) Exhibit 5: Insurance Requirements
- (f) Exhibit 6: Ethics Affidavit
 - Attachment 1: Key Contracting Persons List
- (g) Exhibit 7:
 - Attachment 7-1: Notice of Intent to Subcontract with HUB
 - Attachment 7-2: Travis County HUB Subcontractor Payment Report
 - Attachment 7-3: HUB Subcontractor/Subconsultant Change Form
- (h) Exhibit 8: Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion for Covered Contracts
- (i) Exhibit 9: Disclosure of Lobbying Activities
- (j) Exhibit 10: Section 3 Requirements
 - Attachment 10-1: Section 3 Income Limits
 - Attachment 10-2: Section 3 Local Opportunity Plan
 - Attachment 10-3: Section 3 Definitions
 - Attachment 10-4: Resident Employment Opportunity Data
 - Attachment 10-5: Section 3 Report
 - Attachment 10-6: Section 3 Certification
- (k) Exhibit 11 Information Regarding DUNS Numbers and CCR Registration and Certification Regarding Registration
- (l) Exhibit 12 Contractor Eligibility Verification Form

- (m) Appendix A: Scope of Services
- (n) Appendix B: Consultant's Qualifications Statement

14.28 **ENTIRE AGREEMENT.** This Agreement represents the entire and integrated Agreement between the COUNTY and the CONSULTANT and supersedes all prior negotiations, representations, or agreements, either oral or written.

14.29 CONFIDENTIALITY

14.29.1 **TEXAS PUBLIC INFORMATION ACT.** Notwithstanding any provision in this Agreement to the contrary, disclosure of any information obtained by the County or any of its officials, employees, agents or representatives in connection with this Agreement is subject to the provisions of the Texas Public Information Act and all legal authorities relating thereto, including but not limited to opinions, decisions and letter rulings issued by the Texas Attorney's General Office.

14.29.2 In addition, information obtained by the County or any of its officials, employees, agents or representatives in connection with this Agreement shall be subject to applicable federal statutes and regulations covering the confidentiality of or access to such information.

14.30 **AMENDMENT**

14.30.1 This Agreement may not be altered, amended, or modified except by instrument in writing signed by both parties. It is acknowledged by Consultant that NO OFFICIAL, EMPLOYEE, AGENT, OR REPRESENTATIVE OF TRAVIS COUNTY HAS ANY AUTHORITY, EITHER EXPRESS OR IMPLIED, TO MODIFY OR AMEND THIS AGREEMENT, EXCEPT PURSUANT TO SUCH EXPRESS AUTHORITY AS MAY BE GRANTED BY THE TRAVIS COUNTY COMMISSIONERS COURT.

14.30.2 Consultant shall submit all requests for changes to this Agreement, including the Exhibits and Attachments hereto, to the Travis County Purchasing Agent. The Purchasing Agent shall present Consultant's requests to the Travis County Commissioners Court for consideration.

14.30.3 Any amendments to this Agreement that require federal approval must be submitted to a designated HUD representative for review and approval.

14.31 **ENTITY STATUS.** By my signature below, I certify that the CONSULTANT is a Texas corporation, duly incorporated under Texas law and doing business in the State of Texas.

14.32 **SIGNATORY WARRANTY.**

14.32.1 The undersigned signatory for the Consultant hereby represents and warrants that he or she is an officer of the organization for which he or she has executed this Agreement and that he or she has full and complete authority to enter into this Agreement on behalf of the firm and to bind the firm validly and legally to all the terms, conditions and provisions of this Agreement. These representations and warranties are

not made for the purpose of inducing the County to enter into this Agreement.

14.32.2 If the Consultant later alleges that such person lacks such authority, County may immediately terminate this Agreement without penalty or liability, other than payments owing Consultant for approved services actually performed hereunder.

14.33 **PAYMENT OF TAXES.** The Consultant agrees that neither federal, state, nor local income tax, nor payroll tax of any kind will be withheld or paid by County on behalf of the Consultant or the employees of the Consultant. The Consultant will not be treated as an employee with respect to the services performed under the terms and conditions of this Agreement for federal and state tax purposes. The Consultant accepts responsibility for the compensation of employees, withholding and payment of taxes, and for purchasing any liability, disability or health insurance coverage deemed necessary by the Consultant. The Consultant understands that the Consultant is responsible to pay, according to the law, the Consultant's income tax. If the Consultant is not a corporation, the Consultant further understands that the Consultant may be liable for self-employment (social security) tax, to be paid by the Consultant according to law.

14.34 **NON-DELINQUENCY ON FEDERAL DEBT.** The Consultant, by signing this Agreement, certifies that the Consultant is not delinquent in repaying any Federal debt; has not been judged to be in default on a Federal Debt; and has not had a judgment lien filed against it as a result of a Federal debt. Failure to maintain this status will result in action by County up to and including termination of this Contract.

14.35 **TAXES.** County will not be liable for state, local or federal excise taxes of the Consultant. The Consultant must be able to demonstrate on-site compliance with the Federal Tax Reform Act of 1986, Section 1706, amending Section 530 of the Revenue Act of 1978, dealing with issuance of Form W-2's to common law employees. The Consultant is responsible for both Federal and State Unemployment insurance coverage and standard Workers' Compensation Insurance coverage. The Consultant must comply with all Federal and State tax laws and withholding requirements. County will not be liable to the Consultant or its employees for any Unemployment or Workers' Compensation coverage, or Federal or State withholding requirements.

14.36 **PRECEDENCE.** All services and activities provided by the Consultant related to Grant requirements and paid for by County utilizing Grant Funds ("Grant Activities") shall be specifically subject to terms of this Contract as well as those of the Grant. Should there be a conflict between requirements which cannot be reconciled, as determined by County, then the terms shall be given precedence as follows:

1. Grant
2. Contract

14.37 **USE OF CDBG FUNDS.** The Consultant agrees that the CDBG funds for this Agreement shall be used solely and exclusively for the eligible CDBG activity described in the Scope of Services attached hereto as Attachment C.

- 14.38 AUTOMATIC INCORPORATION OF CHANGES IN HUD STATUTES AND REGULATIONS.** Any change in any statute or in any regulation governing the CDBG Program shall be automatically incorporated into the Agreement. The County, through the Department, will notify the Consultant of any changes in law or regulation that materially affects this Agreement within 30 calendar days of receipt or finalization of such change in law and regulation. The Consultant agrees to implement any change in law or regulation as directed by the County. The County will maintain any such changes with the original Agreement.
- 14.39 INCORPORATION OF STANDARD CDBG TERMS AND CONDITIONS.** The statutory and regulatory provisions governing the CDBG Program shall apply to the use of the funds provided under the Agreement and are incorporated herein by reference.

SECTION 15 DEFINITIONS

15.1 GENERAL

Unless the context of the Agreement clearly indicates otherwise or unless re-defined for purposes of a particular section or paragraph of the Agreement, the terms listed below are defined as follows:

- 15.1.1 "Agreement" means this Agreement between Travis County, through its Health and Human Services/Veterans Services Department, and the Consultant to perform the work, project, activity or service described in the Scope of Services attached hereto as Appendix A.
- 15.1.2 "Commissioners Court" means the Travis County Commissioners Court.
- 15.1.3 "Contract Funds" means all funds paid by County to Consultant pursuant to Section 14.10 and other applicable provisions of this Agreement. Contract Funds may include Grant Funds as indicated by the context of the provision.
- 15.1.4 "Contract Term" means the Initial Term and/or any Renewal Term, or any other period of time designated in writing as a Contract Term by the Parties.
- 15.1.5 "County Auditor" means Susan Spataro, the Travis County Auditor, or her successor.
- 15.1.6 "County Department," "Department" and/or "TCHHSVS" mean Travis County Health, Human Services and Veterans' Services.
- 15.1.7 "County Purchasing Agent" means Cyd Grimes, the Travis County Purchasing Agent, or her successor.
- 15.1.8 "Day(s)" means calendar day(s), unless otherwise specifically noted in any individual provision.
- 15.1.9 "County Executive" means Steven M. Manilla of Travis County Transportation and Natural Resources Department, or his successor or designated representative.

- 15.1.10 "Fiscal Year" means the County Fiscal Year, which is that twelve-month time period between any October 1 and the next following September 30.
- 15.1.11 "General Revenue Funds" or "Current Revenue Fund" means funds in the County treasury that are not grant funds and are available in the current fiscal year if appropriated by commissioners court for purposes of funding this agreement.
- 15.1.12 "Grant" means any contract or agreement governing use of funds from any funding source (other than County General Revenue Funds) from which funds will be paid for services provided under this Contract.
- 15.1.13 "Grant Funds" means funds available which:
- (a) have as their source a grant from a federal, state or local governmental agency, private or non-profit organization; and
 - (b) have an identified purpose, performance expectations, and financial standards that control expenditures; and
 - (c) have specific requirements for their use depending on whether the parties to a Grant funded agreement are contractors, subcontractors, recipients, sub-recipients, grantees or sub-grantees, as determined by the original Grant, accounting practices, and applicable federal and state regulations;
- OR
- (d) are provided from a source which the County has determined to be a Grant source.
- 15.1.14 "Is doing business" and "has done business" mean:
- (a) Paying or receiving in any calendar year any money valuable thing which is worth more than \$250 in the aggregate in exchange for personal services or for purchase of any property or property interest, either real or personal, either legal or equitable; or
 - (b) Loaning or receiving a loan of money; or goods or otherwise creating or having in existence any legal obligation or debt with a value of more than \$250 in the aggregate in a calendar year;
 - (c) but does not include:
 - (1) any retail transaction for goods or services sold to a Key Contracting Person at a posted, published, or marked price available to the general public;
 - (2) any financial services product sold to a Key Contracting Person for personal, family, or household purposes in accordance with pricing

guidelines applicable to similarly situated individuals with similar risks as determined by Consultant in the ordinary course of its business; or

- (3) a transaction for a financial service or insurance coverage made on behalf of Consultant if Consultant is a national or multinational corporation by an agent, employee or other representative of Consultant who does not know and is not in a position that he or she should have known about the Contract.

- 15.1.15 "Key Contracting Person" means any person or business listed in Attachment 1 to the Affidavit attached to this Agreement and marked Exhibit 6.
- 15.1.16 "Median Family Income" means the guidelines established by the U. S. Department of Housing and Urban Development for the Austin-Round Rock Metropolitan Statistical Area for the current Fiscal Year.
- 15.1.17 "Parties" and "Party" means the County and/or Consultant.
- 15.1.18 "Poverty Income Guidelines" means the guidelines established by the United States Office of Health and Human Services for the current Fiscal Year of the federal government.
- 15.1.19 "Reimbursable," "Allowable," or "Authorized Costs" means those amounts authorized to be paid by County to Consultant under the terms of this Contract with Contract Funds.
- 15.1.20 "Subcontract" means any agreement between Consultant and another party to fulfill, either directly or indirectly, any of the requirements of this Contract, in whole or in part. "Subcontract" includes contracts, subcontracts, recipient agreements, sub-recipient agreements, grantee agreements and/or subgrantee agreements.
- 15.1.21 "Subcontractor" means any party providing services required under this Contract to an Eligible Client or to Consultant under an agreement between Consultant and that party, including contractor(s), subcontractor(s), and other subrecipient(s) of Consultant, and any party or parties providing services for Consultant which will be paid for using Contract Funds committed by County to be paid to Consultant under this Contract. Subcontractor includes contractors, subcontractors, recipients, sub-recipients, grantees and sub-grantees.
- 15.1.22 "Business concern" means a business entity formed in accordance with State law, and which is licensed under State, county or municipal law to engage in the type of business activity for which it was formed.
- 15.1.23 "CDBG Program" means the Community Development Block Grant Program established pursuant to the Housing and Community Development Act, P.L. 93-383, 42 U.S.C. § 5301 *et seq.*, as amended.

- 15.1.24 “Employment opportunities generated by section 3 covered assistance” means all employment opportunities generated by the expenditure of section 3 covered public and Indian housing assistance (i.e., operating assistance, development assistance and modernization assistance, as described in § 135.3(a)(1)). With respect to section 3 covered housing and community development assistance, this term means all employment opportunities arising in connection with section 3 covered projects (as described in § 135.3(a)(2)), including management and administrative jobs connected with the section 3 covered project. Management and administrative jobs include architectural, engineering or related professional services required to prepare plans, drawings, specifications, or work write-ups; and jobs directly related to administrative support of these activities, e.g., construction manager, relocation specialist, payroll clerk, etc.
- 15.1.25 “Section 3” means section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u).
- 15.1.26 “Section 3 business concern” means a business concern, as defined in this section--
- (1) That is 51 percent or more owned by section 3 residents; or
 - (2) Whose permanent, full-time employees include persons, at least 30 percent of whom are currently section 3 residents, or within three years of the date of first employment with the business concern were section 3 residents; or
 - (3) That provides evidence of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontracts to be awarded to business concerns that meet the qualifications set forth in paragraphs (1) or (2) in this definition of “section 3 business concern.”
- 15.1.27 “Section 3 clause” means the contract provisions set forth in 24 C.F.R. § 135.38.
- 15.1.28 “Section 3 covered activity” means any activity which is funded by section 3.

SECTION 16 COMPLIANCE WITH “SECTION 3”

- 16.1 **COMPLIANCE.** Compliance with the provisions of Section 3 of the HUD Act of 1968, as amended, and as implemented by the regulations set forth in 24 C.F.R. Part 135, and all applicable rules and orders issued hereunder prior to the execution of this Contract, shall be a condition of the Federal financial assistance provided under this Contract and binding upon the County, the Consultant and any of the Consultant’s Subcontractor(s). Failure to fulfill these requirements shall subject County, Consultant and Subcontractor(s), the successors and assigns, to those sanctions specified by the Contract through which Federal assistance is provided. Consultant certifies and agrees that no contractual or other disability exists that would prevent compliance with these requirements.
- 16.2 The Consultant acknowledges that it has read **Exhibit 10** and understands its “Section 3”

obligations.

- 16.3 The Consultant shall certify its compliance with Section 3 by executing the Section 3 Certification set forth in Attachment 10-6 of **Exhibit 10**.

SECTION 17

ADDITIONAL FEDERAL REPORTING AND REGISTRATION REQUIREMENTS

- 17.1 The County is a primary grant recipient of federal funds, and the Consultant is one of the County's first-tier grant recipients. Accordingly, the Consultant and each of its subcontractors must comply with all requirements established by the Office of Management and Budget concerning the Dun and Bradstreet Data Universal Numbering System, the Central Contractor Registration Database, and the Federal Funding Accountability and Transparency Act ("FFATA" or "Transparency Act"), P.L. 109-282, as amended by section 6202(a) of P.L. 110-252, , including appendix A to Part 25 of the Financial Assistance Use of Universal Identifier and central Contractor Registration, 75 Fed. Reg. 55672 (Sept 14, 2010)(to be codified at 2 CFR part 25) and Appendix A to Part 170 of the Requirements for Federal Funding Accountability and Transparency Act Implementation, 75 Fed. Reg. 55663 (Sept 14, 2010) (to be codified at 2 CFR part 170).

- 17.2 Definitions. As used in this Section:

17.2.1 Award means any grant, cooperative agreement or loan made with CDBG funds. Award official means a person with the authority to enter into, administer, and/or terminate financial assistance awards and make related determinations and findings.

17.2.2 Recipient means any entity other than an individual that receives funds in the form of a grant, cooperative agreement or loan directly from the Federal Government.

17.2.3 Subaward means--

- (1) A legal instrument to provide support for the performance of any portion of the substantive project or program for which the recipient received this award and that the recipient awards to an eligible subrecipient;
- (2) The term does not include the recipient's procurement of property and services needed to carry out the project or program.
- (3) A subaward may be provided through any legal agreement, including an agreement that the recipient or a subrecipient considers a contract.

17.2.4 Subcontract means a legal instrument used by a recipient for procurement of property and services needed to carry out the project or program.

17.2.5 Subrecipient or Subawardee means a non-Federal entity that expends Federal awards received from a pass-through entity to carry out a Federal program, but does not include an individual that is a beneficiary of such a program. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.

- 17.3 The following is required to be included in this Agreement in order to implement the recipient reporting and registration requirements in the Transparency Act:
- (a) This award requires the recipient to complete projects or activities which are funded by the Federal Government and to report on use of federal funds provided through this award. Information from these reports will be made available to the public.
 - (b) Recipients and their first-tier recipients must maintain current registrations in the Central Contractor Registration (<http://www.ccr.gov>) at all times during which they have active federal awards funded. A Dun and Bradstreet Data Universal Numbering System (DUNS) Number (<http://www.dnb.com>) is one of the requirements for registration in the Central Contractor Registration.
 - (c) The recipient shall report any information required by the Transparency Act to the County upon request.
- 17.4 The Consultant acknowledges that the County also has monitoring and reporting responsibilities pursuant to the Transparency Act. The Consultant must provide the County with sufficient data for the County to comply with the County's Transparency Act reporting requirements.
- 17.5 The Consultant acknowledges that it has read **Exhibit 11** (Information Regarding DUNS Numbers and CCR Registration and Certification Regarding Registration).
- 17.6 The Consultant certifies that it has registered with the Data Universal Numbering System operated by Dun and Bradstreet and has obtained a DUNS number and that its DUNS Number listed on the Signature Page of the Agreement is true and correct. The Consultant further certifies that it has completed the contractor information in the Contractor Certification Registration (CCR) database and is currently registered in the CCR database. The Consultant also certifies that it understands its reporting responsibilities under the Transparency Act and that it will comply with all applicable local, state, and federal statutes and rules. In addition, the Consultant must provide the certification in **Exhibit 11** and require each of its subcontractors to provide the certification in **Exhibit 11**.
- 17.7 The Consultant shall not perform any work, allow a subcontractor to perform any work, or enter into any contractual agreement with a subcontractor until:
- (a) the Consultant and any of its potential subcontractors have completed the information in the Contractor Eligibility Verification Form which is attached hereto as **Exhibit 12**, and
 - (b) the Travis County Purchasing Office provides written notice to the Consultant and the subcontractor they have been cleared to perform the work.
- 17.8 All information provided by the Consultant and any of its subcontractors pursuant to the reporting requirements of the Transparency Act is available to the public for viewing and/or copying and may be posted on the following websites: www.co.travis.tx.us, and www.USAspending.gov.

As a duly authorized representative of the CONSULTANT, I acknowledge by my signature below that I have read and understand the above paragraphs and that the CONSULTANT has the obligation to ensure compliance with its provisions by itself and its employees, agents, and representatives.

IN WITNESS WHEREOF, the parties have duly executed this Agreement effective as of the later date set forth below (the "Effective Date").

CONSULTANT

Brown & Goy Engineers, Inc.

DUNS # 059336917

By: Wm. D. Dillon

CCR # 42853

Printed Name: Wm. D. Dillon

Title: Exec. Vice President

Authorized Representative

Date: 6/19/12

The Texas Board of Professional Engineers, 1917 South IH -35 South, Austin, Texas 78741, phone: (512) 440-7723, has jurisdiction over individuals licensed under the Texas Engineering Practice Act, Chapter 1001 of the Occupations Code.

TRAVIS COUNTY:

DRAFT

By: Samuel T. Biscoe
Travis County Judge

Date: _____

AVAILABILITY OF FUNDS CONFIRMED:

By: _____
Susan Spataro
Travis County Auditor

APPROVED AS TO FORM:

By: _____
Cyd V. Grimes, C.P.M., CPPO
Travis County Purchasing Agent

APPROVED AS TO FORM:

By: _____
Assistant County Attorney

EXHIBIT 1**COMPENSATION FOR PROFESSIONAL SERVICES AND SCHEDULE OF PAYMENTS****SECTION 1 – COMPENSATION FOR BASIC SERVICES**

1.1 The fixed fee for the performance of the Basic Services is the sum of (\$101,832.85).

1.1.1 Unless this Agreement has been amended or modified as provided herein, the payments for the phases described below is:

(i) Design Phase: includes:

Work Product 1- 30% Design \$49,675.49

Work Product 2 – 60% Design \$30,465.32

Work Product 3 – 90% Design \$12,131.80

Work Product 4 – 100% Design \$9,560.24

TOTAL: \$101,832.85

SECTION 2 - FIXED FEE

2.1 The CONSULTANT and the COUNTY acknowledge the fact that the fixed fee is the total cost of the Basic Services to be rendered under this Agreement. This fixed fee is based upon the labor and non-labor costs, set forth in Exhibit 2 and described above, required in the performance of the various phases of work provided for under this Agreement.

2.2 In the event of any dispute over the classification of the CONSULTANT's services as either "Basic" or "Additional" services, the decision of the COUNTY EXECUTIVE will be final and binding on the CONSULTANT.

SECTION 3 – COMPENSATION FOR ADDITIONAL SERVICES

3.1 "Additional Services" are defined as any services performed by CONSULTANT not specifically described in the Basic Services (Section 2 of this Agreement).

3.2 The County will pay the CONSULTANT for the performance of Additional Services only if:

3.2.1 TNR recommended the Additional Services to the Travis County Purchasing Agent, and the Travis County Purchasing Agent issues a written authorization to the CONSULTANT to perform the Additional Services before any of those services are performed;

3.2.2 there is a written amendment to this Agreement regarding the Additional Services;

3.2.3 the work to be performed was not made necessary by the CONSULTANT's errors or omissions; and

3.2.4 the work is performed to the satisfaction of the County Executive.

- 3.3 The basis of compensation for the services of principals and employees engaged in the performance of the Additional Services are the hourly rates set forth in Exhibit 2.

SECTION 4 – REIMBURSABLE EXPENSES

- 4.1 The CONSULTANT will be reimbursed for non-labor expenses and a subcontract management fee incurred in the performance of the Basic Services under this Agreement, both of which are at invoice cost plus a N/A percent (N/A%) fee. Detailed requirements for Reimbursable Expenses are outlined in Section 9, Reimbursable Expenses.

Non-Labor reimbursable expenses: $\$7,488.25 \times 1.00 = \$7,488.25$

Sub-Contract Management Fee: $\$N/A \times N/A\% = \N/A

REIMBURSABLES TOTAL NOT TO EXCEED: \$7,488.25

SECTION 5 – TOTAL AGREEMENT SUM

- 5.1 The Total Professional Services Agreement Sum, consisting of the Basic Services of \$101,832.85, plus the Not-to-Exceed Reimbursable Expenses (as listed in paragraph 4.1 above) of \$7,488.25, is not to exceed \$109,321.10.

SECTION 6 – SCHEDULE OF PAYMENTS

- 6.1 Payments will be made on a monthly basis for work performed, as described in detail in the Scope of Services, within 30 days of receipt of a correct and complete invoice, as defined in paragraph 14.10, by the Transportation and Natural Resources Department.

EXHIBIT 2
HOURLY RATES

BASIC SERVICES

Schedule of Rates (Hourly):

Project Director	\$210.00
Project Manager	\$188.00
Sr. Engineer	\$174.00
Project Engineer	\$140.00
Design Engineer	\$125.00
EIT	\$110.00
CADD Tech	\$100.00
Admin Asst.	\$70.00

ADDITIONAL SERVICES

Schedule of Rates (Hourly):

Project Director	\$210.00
Project Manager	\$188.00
Sr. Engineer	\$174.00
Project Engineer	\$140.00
Design Engineer	\$125.00
EIT	\$110.00
CADD Tech	\$100.00
Admin Asst.	\$70.00

EXHIBIT 3
PROJECT SCHEDULE

- A. The CONSULTANT must provide a detailed schedule of services, including a list of tasks and accompanying Work Product, to be performed for each phase described in the Scope of Services (the "Project Schedule"). At the beginning of each phase, the COUNTY EXECUTIVE and the CONSULTANT must update and adjust the details of the Project Schedule and accompanying Work Product as may be required for each phase. The Project Schedule must allow sufficient time for the development of the Work Product in each phase to a level of quality and standard of completeness consistent with normal engineering practice, as well as to allow time for the COUNTY's Technical Review Process.
- A.1 The CONSULTANT must provide and maintain sufficient Project staffing levels necessary to produce the work in a timely and efficient manner consistent with the Project Schedule.
- A.2 The Project Schedule must be updated in the event that:
1. any COUNTY approval or decision is not made within the time frame set forth in the Project Schedule;
 2. the COUNTY makes a written request for a revision in the Work Product that is inconsistent with written approval or instructions previously given by the COUNTY and due to causes beyond the reasonable control of the CONSULTANT;
 3. a force majeure event has occurred; and
 4. the CONSULTANT has not performed in accordance with the latest Project Schedule.
- A.3 If the CONSULTANT falls behind the Project Schedule by two or more weeks, then the CONSULTANT must present the COUNTY EXECUTIVE with a recovery plan, which sets forth the remedial actions to be taken by the CONSULTANT. At its sole option, the COUNTY may withhold all or part of any payment due to the CONSULTANT until the Project Schedule is recovered.
- B. This Agreement will become effective upon the Effective Date and will remain in full force and effect until the Project Completion Date, as defined herein.
- C. The CONSULTANT must complete all design work described herein, and must submit its Work Product for all phases as described in the Scope of Services, except for Bid Phase Services, within 210 **calendar days** from the date of receipt by the CONSULTANT of the COUNTY's written Notice to Proceed.

Calculation of the 210 days referenced in paragraph C does not include any time period during which the COUNTY maintains control of the Work Product or any other documents to be submitted under this Agreement, for purposes that include but are not limited to performing the Technical Review Process described in Section 7 of this Agreement.

ATTACHMENT 1 TO EXHIBIT 3**PERFORMANCE SCHEDULE**

Phase	Precedent	Duration
Work Product #1 – 30% Design	Notice-to-Proceed	90 calendar days
Work Product #2 – 60% Design	County acceptance of WP #1	60 calendar days
Work Product #3 – 90 Design	County acceptance of WP #2	30 calendar days
Work Product #4 – 100% Design	County acceptance of WP #3	30 calendar days

ATTACHMENT 2 to EXHIBIT 3**UTILITY RELOCATION SERVICES**

- I. Research records of properties within project limits of construction
 - a) identify all utility companies that serve the properties
 - b) identify easements on the property and obtain descriptions and copies of any dedication instruments and plats
 - c) identify owners of utilities and their contact information

- II. Obtain existing condition and proposed improvement information from utility companies
 - a) Determine type, size, and approximate location of existing utilities.
 - 1) interview appropriate utility company representatives
 - 2) obtain as-built drawings if available
 - b) determine future plans for utility work within the limits of construction
 - 1) interview appropriate utility company representatives
 - 2) if available, obtain preliminary utility engineering plans and schedule for future improvements
 - 3) If no engineering plans are available, obtain description of proposed improvements including design criteria that will be used including but not limited to:
 - i) utility assignment
 - ii) depth requirements
 - iii) design requirements for separation from other utilities, structures, or activities

- III. Review project design information for existing and potential conflicts
 - a) plan sheets showing existing and proposed conditions for roadways, bridges, buildings, utilities, topography, fences, walls, storm sewer systems, etc.
 - b) profile sheets showing existing and proposed conditions
 - c) detail sheets for foundations showing size and depth requirements
 - d) cross sections showing existing ground and proposed improvement including excavations, embankments, drainage channels, etc

- IV. Coordinate the relocation, protection, upgrading, or abandonment of utilities
 - a) Identify with TNR Project Managers apparent conflicts between existing or proposed utilities and the project improvements shown in the design documents.
 - b) Provide copies of design documents to all utility service providers along with a list of conflicts identified.
 - i) maintain database of utility companies provided with design information, contact persons and numbers, information transmittals, written and verbal communications, and any other pertinent information showing who was involved in the coordination, the decisions made, and the time taken to complete the process
 - ii) meet with utility company representatives to determine their proposed method for reconciling conflicts and communicate the information to TNR
 - iii) meet with TNR and County Attorney's Office and/or the utility company representatives and other public entities as needed to assist with reconciling conflicts between utilities and the proposed improvements, and record and distribute minutes of such meetings
 - iv) prepare draft of elements to be included in any utility agreements or memoranda of understanding to be developed between TNR and utility service providers including

responsibilities for relocation, upgrading, or protection; specifics related to costs, scheduling, sizes and types, vertical and horizontal locations; and any special construction and/or protection requirements.

- v) provide documentation of correspondence and coordination efforts to TNR upon completion of assignment

V. Additional Services

- a) field check locations of above-ground utilities and visible components of below-ground utilities and mark locations relative to existing topographic features on mapping to be provided by TNR.
- c) provide, or contract with companies that can provide, underground utility locating services.
- d) hand excavate to verify location of utilities
- e) represent TNR at Austin Area Utility Coordinating Committee meetings
- f) attend pre-construction and construction meetings
- g) provide documentation and testimony as needed to help resolve claims related to utility work or property condemnation cases.

ATTACHMENT 3 TO EXHIBIT 3**CONSTRUCTION ADMINISTRATION SERVICES****(a) Coordination and Pre-Construction Meeting Services****(i) Technical Submittals and Samples**

Prepare a list of all technical submittals required by the Contractor. This list shall be distributed at the pre-construction meeting.

(ii) Permits

Prepare a list of all permits to be obtained by the Contractor. This list must be distributed at the pre-construction meeting.

(iii) Material Testing and Inspections

Prepare recommendations for the project construction and material testing protocols.

(iv) Pre-construction Submittals

Provide review comments on Contractors' pre-construction submittals. Pre-construction submittals include the Contractor's construction schedule, division of contract, subcontractor list, material supplier list, or any special submittals requested of the Contractor prior to the pre-construction meeting.

(b) Administrative Tasks

(i) Prepare draft agenda for pre-construction meeting.

(ii) Determine the project communication, reporting, submittal approval/rejection protocol, and documentation requirements.

(iii) Conduct weekly job site meetings. Determine the format for scheduling and conducting, and recording construction meeting minutes.

(iv) Review and become knowledgeable of any required County construction administration processes.

(v) Record meeting minutes.

(vi) Maintain Project construction records consisting of all correspondence related to the construction of the Project, including but not limited to:

(A) all approved technical submittals and a technical submittal checklist;

(B) all approved field orders and change orders;

(C) contract specifications and drawings;

(D) daily log;

(E) job meeting minutes;

(F) clarifications drawings;

(G) daily progress reports; and

(H) processed pay requests.

(vii) The daily log, as a minimum, must contain information regarding weather conditions, ambient temperatures, Contractor manpower levels, sub-contractors manpower levels, daily hours of inspection, travel time, conversations, work items being performed, material delivery information, and other observations.

(viii) Daily logs must be completed and include a statement as to whether or not the Contractor is behind schedule or delaying the progress of the work and, if so, the steps the Contractor should take to get back on schedule. Copies of daily logs must be made available to the County upon request.

(ix) Maintain complete files of all Project-related documents at the Project site.

(x) Upon the completion of each calendar month, furnish the County with a typed statement summarizing the status of the work. In the event the work is behind schedule, the statement must also delineate what efforts the Contractor must take to get back on schedule. A copy of this statement must also be delivered to the Contractor.

(xi) After the Project has been completed, submit the Project files, along with the original daily logs to the County.

(c) Construction Phase Services

(i) Submittals

Process submittals, including receipt, review of, and appropriate action on shop drawings, samples and other submittals. Provide recommendations for County approvals of "or equal" substitutions along with any recommended cost adjustments.

(ii) Contract Modifications

For modifications required by the County to resolve design errors or omissions, the Project Manager will coordinate with the CONSULTANT to provide the following services:

(A) Provide recommendations to the County concerning potential changes and modifications to the Project, which are encountered during construction.

(B) Identify and investigate feasible alternatives, to the extent practical, and

prepare necessary plans, details, etc. required to obtain firm cost and schedule impact statements from the Contractor.

(C) Evaluate the Contractor's impact statements and, in conjunction with the County, negotiate costs for any contemplated changes with the Contractor.

(iii) Contractor Pay Requests

Upon receipt of a pay request from a Contractor, jointly review each line item with the Contractor and advise the Contractor's representative of any discrepancies or conflicts in the pay requests. Verify the accuracy of quantities of installed, delivered, and stored materials. Advise the County of any issues that may warrant withholding, reducing, or delaying payment to the Contractor and provide supporting documentation.

(iv) Interpretation of the Contract Documents

Upon request, provide interpretation or clarification of the construction documents to the County or the Contractor. Determine an acceptable method for communicating interpretations and clarifications directly to the Contractor beforehand.

(v) Observation

Site visits are to be performed to the extent necessary to:

(A) Observe, document, and report to the County and the Contractor whether the Project is being constructed in accordance with the contract documents.

(B) Observe, document, and report to the County and the Contractor whether the proper measure of unit price bid quantities is being implemented and confirm percentage completion of lump sum items.

(C) Observe, document, and report to the County the progress of the Contractor and resources committed to the Project by the Contractor.

(vi) Materials Testing and Inspections

(i) Establish and administer a materials sampling and testing program to provide quality control and compliance with the construction plans and specifications. Utilizing the list of required testing developed from the construction documents develop a testing program for the Project. The testing program must designate what services are to be provided by the CONSULTANT and the Contractor. Services must include, but not be limited to, soils compaction testing, concrete cylinder compression strength tests, gradation analysis, miscellaneous shop inspection, and other testing required by the construction contract documents, or as specifically requested by the County. A copy of the proposed testing program must be prepared for review by the County prior to beginning work.

(ii) Review all laboratory and field-testing results to determine whether results are

in compliance with the construction contract documents and provide recommendations for correction of substandard materials and workmanship revealed during testing.

(vii) Claims

Assist the County with claim reviews and negotiations upon request and with the preparation of related correspondence and documentation.

(viii) Contract Enforcement

Examine Contractor workmanship, materials, progress, and overall compliance with requirements of the contract documents and immediately report any observed deficiencies to the Contractor and the County. Communicate to the Contractor and the County what may be necessary to effect corrective action. Document deficiencies and actions taken by Contractor to correct them. Assist the County with evaluating impacts of potential contract termination upon project costs and schedule.

(ix) Contract Termination

Assist the County with completion of an assessment of the status of the Contractor's contract, the development of an agreement with the Contractor's Surety to complete the work, and preparing and holding a pre-construction meeting with the replacement Contractor.

(x) Project Acceptance and Close-out

(A) Perform with the County and the Contractor substantial completion and final inspections and compile and distribute related punch requiring correction.

(B) Compile and review for completeness all Operation and Maintenance Manuals to be submitted by the Contractor and inform Contractor of any deficiencies.

(C) Review and comment on final pay request and supporting close-out documents, and provide recommendation for approval or rejection to the County.

(D) Upon Project completion, obtain the original drawings, incorporate all as-built conditions on the original drawings and provide copies to the County at Project close-out.

(D) Post Construction Services

(i) Meet with the County upon request during the warranty period to investigate problems with material, equipment, and/or workmanship that may arise. Determine whether or not such problems are warranty issues or design issues and recommend solutions.

(ii) Coordinate and attend with the County a final warranty inspection no less than

sixty days prior to expiration of Contractor warranty period. Develop list of deficiencies, if any, and determine if deficiencies are caused by inferior workmanship, equipment, and/or materials or caused by other reasons. Provide recommendations for resolving each deficiency. Complete a follow-up inspection with the County to determine whether deficiencies have been corrected by the Contractor prior to expiration of the warranty period.

(viii) Contractor Warranty

Examine Contractor's workmanship, materials, equipment, and overall compliance with requirements of the contract documents and immediately report any observed deficiencies to the Engineer and the County. Communicate to the Contractor and the County what may be necessary to effect corrective action. Document deficiencies and actions taken by Contractor to correct them. Assist the County with evaluating impact of potential contract termination upon project costs and schedule.

(ix) Contract Termination

Assist the County with completion of an assessment of the status of the Contractor's contract. The development of an agreement with the Contractor to complete the work and wrapping and holding a pre-termination meeting with the Contractor.

(x) Project Acceptance and Close-out

(A) Perform with the County and the Contractor substantial completion and final inspections and complete and distribute (signed) punch listing correction.

(B) Compile and review for completeness all Operation and Maintenance Manuals to be submitted by the Contractor and inform Contractor of any deficiencies.

(C) Review and comment on final pay request and supporting close-out documents and provide recommendations for approval of contract to the County.

(D) Upon Project completion obtain the original drawings, incorporate all as-built conditions on the original drawings and provide copies to the County at Project close-out.

(B) Post Construction Services

(i) Meet with the County upon request during the warranty period to investigate problems with material, equipment, and/or workmanship that may arise. Determine whether or not such problems are warranty issues or design issues and recommend solutions.

(ii) Conducts and assist with the County's final warranty inspection no less than

EXHIBIT 4
EQUAL OPPORTUNITY IN EMPLOYMENT

- A. The CONSULTANT shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The CONSULTANT shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The CONSULTANT agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this non-discrimination clause.
- B. The CONSULTANT shall, in all solicitations or advertisements for employees placed by or on behalf of the CONSULTANT, state that all qualified applicants shall receive consideration for employment without regard to race, color, religion, sex, or national origin.
- C. The CONSULTANT shall send to the labor union representative or workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the Contract Compliance Officer advising the said labor union or worker's representatives of the CONSULTANT'S obligations under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- D. The CONSULTANT shall comply with the regulations of the United States Department of Transportation (49 CFR 21 and 23 CFR §710.405) and all provisions of Executive Order 11246 of September 24, 1965, as amended, and of the rules, regulations and relevant orders of the Secretary of Labor, including 41 CFR Part 60.
- E. The CONSULTANT shall furnish all information and reports required by Executive Order 11246 of September 24, 1965, as amended, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto; and shall permit access to his books, records, and accounts by the Department and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
- F. In the event of the CONSULTANT'S non-compliance with the non-discrimination 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 CONSULTANT may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375 (41 CFR 60) or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- G. The CONSULTANT shall include the provisions of paragraphs (A.) through (F.) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 or Executive Order 11246 of September 24, 1965, as amended, so that such provisions shall be binding upon each subcontractor or vendor. The CONSULTANT shall take such action with respect to any subcontractor purchase order as the Department may direct as a means of enforcing such provisions, including

sanctions for non-compliance; provided, however, that in the event the CONSULTANT becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the COUNTY or Federal Agency, the CONSULTANT may request the COUNTY and United States to enter into such litigation to protect the interests of the United States.

- D. The CONSULTANT shall, in all applications for subcontractors for work to be performed on behalf of the COUNTY, state that all subcontractors shall receive consideration for employment without regard to race, color, religion, sex or national origin.
- E. The CONSULTANT shall send to the labor union representative or workers with which he has a collective bargaining agreement or other contract of understanding, a notice to be provided by the Contract Compliance Officer advising the said labor union or worker's representatives of the CONSULTANT'S obligation under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- F. The CONSULTANT shall comply with the regulations of the United States Department of Labor (48 CFR 21 and 22 21-22 TO 22) and all provisions of Executive Order 11246 of September 24, 1965, as amended, and of the rules, regulations and relevant orders of the Secretary of Labor, including 41 CFR Part 30.
- G. The CONSULTANT shall furnish an information and reports required by Executive Order 11246 of September 24, 1965, as amended, and by rules, regulations, and orders of the Secretary of Labor or Contract Compliance Officer and shall permit access to his books, records, and accounts by the Government and the Secretary of Labor for purposes of investigation to ascertain compliance with said rules, regulations and orders.
- H. In the event of the CONSULTANT'S non-compliance with the non-discrimination clause 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 CONSULTANT may be referred to the Federal Government contracts in accordance with procedures established in Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375 (41 CFR 30) or by the regulation or order of the Secretary of Labor, or as otherwise provided by law.
- I. The CONSULTANT shall include the provisions of paragraphs (A) through (F) 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, as amended, so that such provisions shall be binding upon each subcontractor or vendor. The CONSULTANT shall take such action with respect to any subcontractor purchase order as the Government may direct as a means of enforcing such provisions, including

EXHIBIT 5**INSURANCE REQUIREMENTS**

Contractor shall have, and shall require all subcontractors providing services under this Contract to have, Standard Insurance meeting the General Requirements as set forth below and sufficient to cover the needs of Contractor and/or Subcontractor pursuant to applicable generally accepted business standards. Depending on services provided by Contractor and/or Subcontractor(s), Supplemental Insurance Requirements or alternate insurance options shall be imposed as follows:

I. General Requirements Applicable to All Contractors' Insurance.

The following requirements apply to the Contractor and to Subcontractor(s) performing services or activities pursuant to the terms of this Contract. Contractor acknowledges and agrees to the following concerning insurance requirements applicable to Contractor and subcontractor(s):

- A. The minimum types and limits of insurance indicated below shall be maintained throughout the duration of the Contract.
- B. Insurance shall be written by companies licensed in the State of Texas with an A.M. Best rating of B+ VIII or higher.
- C. Prior to commencing work under this Contract, the required insurance shall be in force as evidenced by a Certificate of Insurance issued by the writing agent or carrier. A copy of the Certificate of Insurance shall be forwarded to County immediately upon execution of this Contract.
- D. Certificates of Insurance shall include the endorsements outlined below and shall be submitted to the Travis County Purchasing Agent within ten (10) working days of execution of the contract by both parties or the effective date of the Contract, whichever comes first. The Certificate(s) shall show the Travis County contract number and all endorsements by number.
- E. Insurance required under this Contract which names Travis County as Additional Insured shall be considered primary for all claims.
- F. Insurance limits shown below may be written as Combined Single Limits or structured using primary and excess or umbrella coverage that follows the form of the primary policy.
- G. County shall be entitled, upon its request and without expense, to receive certified copies of policies and endorsements.
- H. County reserves the right to review insurance requirements during any term of the Contract and to require that Contractor make reasonable adjustments when the scope of services has been expanded.
- I. Contractor shall not allow any insurance to be cancelled or lapse during any term of this Contract. Contractor shall not permit the minimum limits of coverage to erode or otherwise be reduced. Contractor shall be responsible for all premiums, deductibles and self-insured retention. All deductibles and self-insured retention shall be shown on the Certificates of Insurance.
- J. Insurance coverage specified in this Contract is not intended and will not be interpreted to limit the

responsibility or liability of the Contractor or subcontractor(s).

II. Specific Requirements

The following requirements (II.A - II.E, inclusive) apply to the Contractor and Subcontractor(s) performing services or activities pursuant to the terms of this Contract. Contractor acknowledges and agrees to the following concerning insurance requirements applicable to Contractor and subcontractor(s):

A. Workers' Compensation and Employers' Liability Insurance

1. Coverage shall be consistent with statutory benefits outlined in the Texas Workers' Compensation Act.
2. Employers' Liability limits are
 - \$500,000 bodily injury each accident
 - \$500,000 bodily injury by disease
 - \$500,000 policy limit
3. Policies under this Section shall apply to State of Texas and include the following endorsements in favor of Travis County:
 - a. Waiver of Subrogation (Form 420304)
 - b. Thirty (30) day Notice of Cancellation (Form 420601)

B. Commercial General Liability Insurance

1. Minimum limit:
 - \$1,000,000* per occurrence for coverage A and B with a \$1,000,000 policy aggregate
2. The Policy shall contain or be endorsed as follows:
 - a. Blanket contractual liability for this Contract
 - b. Independent Contractor Coverage
3. The Policy shall also include the following endorsements in favor of Travis County
4.
 - a. Waiver of Subrogation (Form CG 2404)
 - b. Thirty (30) day Notice of Cancellation (Form CG 0205)
 - c. Travis County named as additional insured (Form CG 2010)

*** Supplement Insurance Requirement** If child care, or housing arrangements for clients is provided, the required limits shall be:

\$ 1,000,000 per occurrence with a \$ 2,000,000 policy aggregate

C. Business Automobile Liability Insurance†

1. If any form of transportation for clients is provided, coverage for all owned, non-owned, and hired vehicles shall be maintained with a combined single limit of \$300,000* per occurrence
2. Policy shall also include the following endorsements in favor of Travis County
 - a. Waiver of Subrogation (Form TE 2046A)
 - b. Thirty (30) day Notice of Cancellation (Form TE 0202A)
 - c. Travis County named as additional insured (Form TE 9901B)

† **Alternative Insurance Requirement**

If NO transportation services of any type is provided, and use of a motor vehicle is strictly limited to travel to and from work or work sites, evidence of Personal Auto Policy coverage with limits of \$ 100,000/\$300,000/\$50,000 may be provided in lieu of Business Automobile Liability Insurance

D. Professional Liability and/or E & O Insurance

1. **Minimum Limit: \$ 1,000,000 per Occurrence**
2. If coverage is written on a claims made policy, the retroactive date shall be prior to the date services begin under this Contract or the effective date of this Contract, whichever comes first. Coverage shall include a three- (3) year extended reporting period from the date this Contract expires or is terminated. Certificate of Insurance shall clarify coverage is claims made and shall contain both the retroactive date of coverage and the extended reporting period date.
3. Additional insured status for Travis County is **not** required

E. Blanket Crime Policy Insurance

1. If an advance against Contract Funds is requested or received in an amount greater than \$5,000, a Blanket Crime Policy shall be required with limits of the Contract Funds allocated in the Contract or the amount of scheduled advances.
2. If coverage is written on a claims made policy, the retroactive date shall be prior to the date services begin under this Contract or the effective date of this Contract, whichever comes first. Coverage shall include a three- (3) year extended reporting period from the date this Contract expires or is terminated. Certificate of Insurance shall clarify coverage is claims made and shall contain both the retroactive date of coverage and the extended reporting period date.
3. Additional Insured status for Travis County is **not** required.

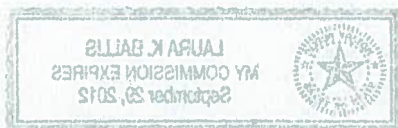


EXHIBIT 6

STATE OF TEXAS }
COUNTY OF TRAVIS }

ETHICS AFFIDAVIT

Date: 8/19/12
Name of Affiant: Donald French
Title of Affiant: Vice President
Business Name of CONSULTANT: Brown & Gay Engineers, Inc.
County of CONSULTANT: Travis

Affiant on oath swears that the following statements are true:

1. Affiant is authorized by CONSULTANT to make this affidavit for CONSULTANT.
2. Affiant is fully aware of the facts stated in this affidavit.
3. Affiant can read the English language.
4. CONSULTANT has received the list of Key Contracting Persons associated with this Agreement, which is attached to this affidavit as Attachment 1.
5. Affiant has personally read Attachment 1 to this Affidavit.
6. Affiant has no knowledge of any Key Contracting Person on Attachment 1 with whom CONSULTANT is doing business or has done business during the 365 day period immediately before the date of this affidavit.

Donald French
Signature of Affiant

7000 N. Moenic, Suite 330, Austin, TX 78731
Address

SUBSCRIBED AND SWORN TO before me by June on 19th, 2012

Laura K. Ballis
Notary Public, State of TX

Laura K. Ballis
Typed or printed name of notary
My commission expires: 9/29/12



EXHIBIT 6, ATTACHMENT 1
LIST OF KEY CONTRACTING PERSONS
February 3, 2012

CURRENT

<u>Position Held</u>	<u>Name of Individual Holding Office/Position</u>	<u>Name of Business Individual is Associated</u>
County Judge	Samuel T. Biscoe	
County Judge (Spouse)	Donalyn Thompson-Biscoe....	
Executive Assistant	Cheryl Brown	
Executive Assistant	Melissa Velásquez	
Executive Assistant	Josie Z. Zavala	
Executive Assistant	Cheryl Aker	
Commissioner, Precinct 1	Ron Davis	
Commissioner, Precinct 1 (Spouse).....	Annie Davis	Seton Hospital
Executive Assistant	Deone Wilhite	
Executive Assistant	Felicitas Chavez	
Commissioner, Precinct 2	Sarah Eckhardt	
Commissioner, Precinct 2 (Spouse).....	Kurt Sauer	Daffer McDaniel, LLP
Executive Assistant	Loretta Farb	
Executive Assistant	Joe Hon	
Executive Assistant	Peter Einhorn	
Commissioner, Precinct 3	Karen Huber	
Commissioner, Precinct 3 (Spouse)	Leonard Huber	Retired
Executive Assistant	Garry Brown	
Executive Assistant	Lori Duarte	
Executive Assistant	Jacob Cottingham*	
Commissioner, Precinct 4	Margaret Gomez	
Executive Assistant	Edith Moreida	
Executive Assistant	Norma Guerra	
County Treasurer	Dolores Ortega-Carter	
County Auditor	Susan Spataro, CPA	
County Executive, Administrative.....	Vacant	
County Executive, Planning & Budget ...	Leslie Browder*	
County Executive, Emergency Services ..	Danny Hobby	
County Executive, Health/Human Services	Sherri E. Fleming	
County Executive, TNR	Steven M. Manilla, P.E.*	
County Executive, Justice and Public Safety	Roger Jefferies	
Chief Information Officer	Joe Harlow	
Director, Facilities Management	Roger El Khoury, M.S., P.E.	
Director, Records Mgmt & Communications	Steven Broberg	
Travis County Attorney	David Escamilla	
First Assistant County Attorney	Steve Capelle	
Executive Assistant, County Attorney	James Collins	
Director, Land Use Division.....	Tom Nuckols*	
Attorney, Land Use Division.....	Christopher Gilmore	
Attorney, Land Use Division.....	Julie Joe	
Director, Transactions Division	John Hille	
Attorney, Transactions Division..	Tamara Armstrong	
Attorney, Transactions Division..	Daniel Bradford	
Attorney, Transactions Division..	Mary Etta Gerhardt	
Attorney, Transactions Division..	Barbara Wilson	
Attorney, Transactions Division..	Jim Connolly	
Attorney, Transactions Division..	Tenley Aldredge	
Director, Health Services Division	Vacant	
Health Services Division	Prema Gregerson	

CURRENT – continued

<u>Position Held</u>	<u>Name of Individual Holding Office/Position</u>	<u>Name of Business Individual is Associated</u>
Purchasing Agent	Cyd Grimes, C.P.M., CPPO	
Assistant Purchasing Agent	Marvin Brice, CPPB	
Assistant Purchasing Agent	Bonnie Floyd, CPPO, CPPB, CTPM	
Purchasing Agent Assistant IV... ..	Vacant	
Purchasing Agent Assistant IV... ..	Lee Perry	
Purchasing Agent Assistant IV... ..	Jason Walker	
Purchasing Agent Assistant IV... ..	Richard Villareal	
Purchasing Agent Assistant IV... ..	Patrick Strittmatter*	
Purchasing Agent Assistant IV... ..	Lori Clyde, CPPO, CPPB	
Purchasing Agent Assistant IV... ..	Scott Wilson, CPPB	
Purchasing Agent Assistant IV... ..	Jorge Talavera, CPPO, CPPB	
Purchasing Agent Assistant IV... ..	George R. Monnat, C.P.M., A.P.P.	
Purchasing Agent Assistant IV... ..	John E. Pena, CTPM	
Purchasing Agent Assistant IV... ..	Rosalinda Garcia	
Purchasing Agent Assistant III	Shannon Pleasant, CTPM*	
Purchasing Agent Assistant III	Michael Long, CPPB	
Purchasing Agent Assistant III	Loren Breland, CPPB	
Purchasing Agent Assistant III	David Walch	
Purchasing Agent Assistant III	Nancy Barchus, CPPB	
Purchasing Agent Assistant III	Jesse Herrera, CTP, CTPM, CTCM*	
Purchasing Agent Assistant III	C.W. Bruner, CTP	
Purchasing Agent Assistant II	Jayne Rybak, CTP*	
HUB Coordinator.....	Sylvia Lopez	
HUB Specialist	Betty Chapa	
HUB Specialist	Jerome Guerrero	
Purchasing Business Analyst.....	Scott Worthington	
Purchasing Business Analyst.....	Jennifer Francis	
Transportation and Natural Resources HHS-CDBG	Lee Turner Christy Moffett	

FORMER EMPLOYEES

<u>Position Held</u>	<u>Name of Individual Holding Office/Position</u>	<u>Date of Expiration</u>
Purchasing Agent Assistant IV... ..	Oralia Jones, CPPB.....	07/31/12
County Executive, Planning & Budget	Rodney Rhoades.....	08/19/12
Purchasing Agent Assistant IV... ..	Purchasing Agent Assistant IV	12/16/12
Director, Health Services Division.....	Beth Devery	03/09/13
Purchasing Agent Assistant III	Elizabeth Corey, C.P.M.	03/14/13

* - Identifies employees who have been in that position less than a year.

EXHIBIT 7

This Exhibit 7 contains the following documents:

- 1. Attachment 7-1: Notice of Intent to Subcontract with HUB
- 2. Attachment 7-2: Travis County HUB Subcontractor Payment Report
- 3. Attachment 7-3: HUB Subcontractor/Subconsultant Change Form

Contract Name: _____
 Address: _____
 City: _____ State: _____ Zip: _____
 Phone No. () _____
 Project Title & No. _____
 Prime Contract Amount \$ _____
 HUB Subcontractor Name: _____
 HUB Status (Federal/State/Local) _____
 Contract Agency / TX Dept. / Management Contract / Client Agency / TX Dept. / Management Contract _____
 Address: _____
 City: _____ State: _____ Zip: _____
 Phone No. () _____
 Project Subcontract Amount \$ _____
 Description of Subcontract Work (Formal) _____
 Printed Name of Contractor Representative _____
 Signature of Contractor Representative _____ Date _____
 Printed Name of HUB Representative _____
 Signature of Representative _____ Date _____

Now, Making of this Notice of Intent to Subcontract is intended to confer no rights, expressed or implied, to any third parties.
 PRE-APPROVAL FOR SUBCONTRACTOR SUBSTITUTION MUST BE OBTAINED FROM THE TRAVIS COUNTY
 PURCHASING AGENT BY REPRESENTATIVE. THE AWD SHALL HAVE TO SUBMIT SUBCONTRACT CHANGE FORM
 MUST BE COMPLETED AND SUBMITTED TO THE BUYER ONLY VIA FAX 512.833.0182

Attachment 7-2:

TRAVIS COUNTY

HISTORICALLY UNDERUTILIZED BUSINESS (HUB) - SUBCONTRACTOR PAYMENT REPORT

PRIME CONTRACTOR/CONSULTANT NAME: _____ AMOUNT OF PRIME CONTRACT: _____
 PROJECT TITLE/No. : _____ AMOUNT OF ALL SUBCONTRACTS: _____
 TOTAL CONTRACT PERIOD: From: _____ To: _____ PAYMENTS REPORTED FOR THE MONTH OF: _____ 20__

A	B	C	D	E	F	G
NAME OF HUB SUB-CONTRACTOR*	DESCRIPTION OF WORK	ORIGINAL SUB-CONTRACT AMOUNT	INCREASE OR DECREASE (MODIFICATION)	REVISED SUB-CONTRACT AMOUNT	PAYMENT THIS PERIOD	CUMULATIVE PAYMENTS

Instructions for completing this form:

- SECTION A: Name all HUB Subcontractors performing on this project.
- SECTION B: State the work being performed by the HUB Subcontractors.
- SECTION C: State the original HUB Subcontractor amount.
- SECTION D: State any increases or decrease, as a result of contract modifications or change orders, to the original HUB Subcontract (Section C) amount.
- SECTION E: State the amended HUB Subcontract amount, to the Initial HUB Subcontract amount, as a result of any increase and/or decrease (Section D).
- SECTION F: State the amount paid to each HUB Subcontractor during this reporting period.
- SECTION G: State the total amount of payments made to-date (including amount from Section F) to the HUB Subcontractor.

I certify that the information listed on this report is true and accurate to the best of my knowledge. I fully understand that intentionally falsifying information on this document may result in TERMINATION OF MY CONTRACT.

Printed Name of Contractor Representative _____ Signature of Contractor Representative _____ Date _____ Report Number _____

PLEASE SUBMIT THIS FORM WITH YOUR MONTHLY INVOICES, PER THE TERMS OF YOUR CONTRACT.

Attachment 7-3:

HUB SUBCONTRACTOR/SUBCONSULTANT CHANGE FORM
(ADDITION, SUBSTITUTION, DELETION, REDUCTION, INCREASE)

CONTRACT #: _____

CONTRACT DESCRIPTION: _____

PRIME CONTRACTOR: _____

REQUESTED BY: _____ CONTACT #: _____

DATE: _____ E-mail: _____

- OBTAIN PRE-APPROVAL FROM THE TRAVIS COUNTY PURCHASING AGENT AND/OR THE HUB COORDINATOR OF ALL CHANGES INVOLVING CERTIFIED HUB SUBCONTRACTORS.
- IF BIDDER HAS DIFFICULTY IN LOCATING CERTIFIED HUB SUBCONTRACTORS CONTACT THE TRAVIS COUNTY HUB COORDINATOR AT (512) 845-4561 OR HUB SPECIALIST AT (512) 854-9914, FOR ASSISTANCE.

Check reason: Addition Substitution Deletion Reduction Increase

REASON FOR ACTION:

- Unavailable after receipt of reasonable notice to proceed.
- Failure of performance.
- Financial capacity.
- Refusal by the subcontractor to honor the bid of proposal price.
- Mistake of fact or law about the elements of the scope of work of a solicitation where a reasonable price cannot be agreed upon.
- Failure of the subcontractor to meet insurance, licensing, or bonding requirements.
- The subcontractor's withdrawal of his bid or proposal.

Please provide me with a HUB Subcontractor listing.

I have already selected a potential HUB Subcontractor for this project. (List below)

SUB TO BE REPLACED: _____

REPLACEMENT: _____

REPLACEMENT'S STATUS:

Certified: HUB M/WBE DBE Non-HUB Unknown

INCREASED/DECREASED AMOUNT: Original Amt. \$ _____ New Amt. \$ _____

OTHER COMMENTS:

FAX TO: 512.854.9185 ATTN: HUB OFFICE

REVIEWED BY HUB PROGRAM OFFICE: Initials: _____ Date: _____

**EXHIBIT 8
CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY, AND VOLUNTARY EXCLUSION FOR COVERED CONTRACTS**

Federal Executive Order 12549 requires Travis County to screen each covered potential contractor to determine whether each has a right to obtain a contract in accordance with federal regulations on debarment, suspension, ineligibility, and voluntary exclusion. Each covered contractor must also screen each of its covered subcontractors.

In this certification "contractor" refers to both contractor and subcontractor; "contract" refers to both contract and subcontract.

By signing and submitting this certification, the contractor/potential contractor accepts the following terms:

1. The certification herein below is a material representation of fact upon which reliance was placed when this contract was entered into. If it is later determined that the potential contractor knowingly rendered an erroneous certification, in addition to other remedies available to the federal government or Travis County may pursue available remedies, including suspension and/or debarment.
2. The potential contractor shall provide immediate written notice to the person to which this certification is submitted if at any time the potential contractor learns that the certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
3. The words "covered contract," "debarred," "suspended," "ineligible," "participant," "person," "principle," "proposal," and "voluntarily excluded," as used in this certification have meanings based upon materials in the Definitions and Coverage sections of federal rules implementing Executive Order 12549.
4. The potential contractor agrees by submitting this certification that, should the proposed covered contract be entered into, it shall not knowingly enter into any subcontract with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by a federal department or agency, and/or Travis County, as applicable.

Do you have or do you anticipate having subcontractors under this proposed contract? ___ YES ___ NO

5. The potential contractor further agrees by submitting this certification that it will include this certification titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion for Covered Contracts "without modification, in all covered subcontracts"; and in solicitations for all covered subcontracts.
6. A contractor may rely upon a certification of a potential subcontractor that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered contract, unless it knows that the certification is erroneous. A contractor must at a minimum, obtain certifications from its covered subcontractors upon each subcontract's initiation and upon each renewal.
7. Nothing contained in all 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 certification document. The knowledge and information of a contractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
8. Except for contracts authorized under paragraph 4 of these terms, if a contractor in a covered contract knowingly enters into a covered subcontract with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the federal government, any federal agency and/or Travis County may pursue available remedies, including suspension and/or debarment.

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY, AND VOLUNTARY EXCLUSION FOR COVERED CONTRACTS

Indicate in the appropriate box which statement applies to the covered contractor/potential contractor:

- The contractor/potential contractor certifies, by submission of this certification, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this contract by any federal department or agency, the State of Texas, or Travis County.
- The contractor/potential contractor is unable to certify to one or more of the terms in this certification. In this instance, the contractor/potential contractor must attach an explanation for each of the above terms to which he is unable to make certification. Attach the explanation(s) to this certification.

Name of Contractor _____ Vendor I.D. or Social Security No. _____

Signature of Authorized Representative _____ Date _____ Printed/Typed Name & Title of Authorized Representative _____

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity 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 a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secure to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity or this covered Federal action.
4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee", then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number, the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.
14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.
15. Check whether or not a SF-LLL-A continuation Sheet(s) is attached.
16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503.

Exhibit 10 to CDBG-PSA
Travis County
Community Development Block Grant (CDBG) Program
Section 3 Overview

Section 3 Overview

Section 3 of the Housing and Urban Development Act of 1968, as amended, requires that recipients of financial assistance provided by the U.S. Department of Housing and Urban Development (HUD), including developers, owners, and contractors and their subcontractors, provide, "to the greatest extent feasible", training and employment opportunities for low income area residents and contract opportunities for the performance of work by local businesses owned by and/or employing low income residents.

Applicability

Section 3 preference requirements apply to recipients of CDBG for a covered project for which the amount of assistance exceeds \$200,000. Contractors and subcontractors are subject to Section 3 requirements when the amount of assistance exceeds \$200,000 and the amount of the contract or subcontract exceeds \$100,000. If the amount of assistance exceeds \$200,000, but no contract exceeds \$100,000, the Section 3 preference requirements apply only to the recipients. Section 3 applies to subrecipients, professional services or construction work for housing rehabilitation, housing construction or other public construction projects.

Section 3 Residents and Business Concerns

A "section 3 resident" is: 1) a public housing resident; or 2) a low- or very low-income person residing in the metropolitan area or Non-metropolitan County in which the Section 3 covered assistance is expended. Refer to Attachment 10-1 for a definition of low and very low income resident.

"Section 3 business concerns" are businesses that can provide evidence that they meet one of the following: 1) 51 percent or more owned by Section 3 residents; or 2) At least 30 percent of its fully time employees include persons that are currently Section 3 residents, or within three years of the date of first employment with the business concern were Section 3 residents; or 3) Provides evidence, as required, of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontracts to be awarded to business concerns that meet the qualifications in the above two paragraphs.

Section 3 Compliance

To comply with Section 3 requirements, the Travis County CDBG program will examine and consider amongst other factors the contractor's or vendor's potential for success by providing employment and business opportunities to low- and very low-income residents prior to acting on any proposed contract award. Towards this end, the County will include a local opportunity plan for CDBG-sponsored projects. As part of the response to bid solicitations, request for proposals, services or qualifications, businesses will be required to certify that a Section 3 Local Opportunity Plan will be submitted to the County if they are awarded a CDBG-funded contract.

Section 3 Local Opportunity Plan

A sample local opportunity plan is attached as Attachment 10-2 along with Section 3 definitions on Attachment 10-3. Recipients will be expected to maintain documentation of activities and outreach attempts. Recipients can use the form in Attachment 10-4 to document the eligibility of their workers as Section 3 eligible residents. Additional information about Section 3 can be found on HUD's website at the following URL:

<http://www.hud.gov/offices/fheo/section3/section3.cfm> .

Reporting

Contractors, consultants, subrecipients and subcontractors will be expected to complete the "Section 3 Report" found in Attachment 10-5 to document efforts made to direct the employment toward low-and very low income persons and to document whether Section 3 residents were hired to fill any available positions. Reports must be submitted to the County on a quarterly basis throughout the contract period and a final report will be due 5 days after the project/contract close-out date. The quarterly reports will be due according to the following schedule:

- January 5th for activities undertaken from October through December;
- April 5^h for activities undertaken from January through March;
- July 5th for activities undertaken from April through June; and
- October 5th for activities undertaken from July through September.

If the 5th falls on a weekend or a holiday, the quarterly reports are due to Travis County on the next business day.

Exhibit 10

Attachment 10-1: Section 3 Income Limits

All residents of public housing developments of the Travis County Housing Authority qualify as Section 3 residents. Additionally, individuals residing in Travis County who meet the low income limits set forth below can also qualify for Section 3 status.

Eligibility Guideline (Effective February 2012)	
Number in Household	Low Income
1 individual	\$42,500
2 individuals	\$48,600
3 individuals	\$54,650
4 individuals	\$60,700
5 individuals	\$65,600
6 individuals	\$70,450
7 individuals	\$75,300
8 individuals	\$80,150

Exhibit 10

Attachment 10-2: Section 3 Local Opportunity Plan

(Name of Contractor), hereby agrees to implement the following specific affirmative action steps to increase the utilization of business concerns located within the Travis County boundaries.

1. Implement procedures to notify Section 3 residents and business concerns about training and employment opportunities generated by Section 3 covered assistance.
2. Implement procedures to notify Section 3 business concerns about the availability of contracting and subcontracting opportunities generated by Section 3 covered assistance.
3. Use notification methods to reach a broad segment of Section 3 residents that may include advertising in local advertising media, placing signs at the project site, contacting the Travis County Housing Authority, and contacting community organizations, employment agencies, and other public or private institutions operating and servicing the project area.
4. Notify potential contractors and subcontractors contemplating work on Section 3 covered projects of their responsibilities.
5. Incorporate the Section 3 Clause (verbatim) into all covered solicitations and contracts as per Section 24 CFR Part 135.38.
6. Refrain from entering into contracts with contractors or subcontractors that are in violation of the Section 3 regulations.
7. Appoint or recruit a staff member to act as Equal Opportunity Officer to coordinate the implementation of this plan.
8. Submit quarterly reports as required by the Travis County CDBG program reporting Section 3 employment activities.
9. Maintain records, including copies of correspondence, memoranda, etc., which document that all of the above affirmative action steps have been taken.

We, the officers / representatives of _____, have read and fully agree to this plan, and agree to become a party to the full implementation of this program.

IN WITNESS WHEREOF, the undersigned, being duly authorized, has caused this document to be executed in its name on the _____ day of _____, _____.

Signature of Authorized Representative

Title

Exhibit 10

Attachment 10-3: Section 3 Definitions

Employment Opportunities Generated by Section 3 Covered Assistance – all employment opportunities generated by the expenditure of Section 3 covered projects including management and administrative jobs. Management and administrative jobs include architectural, engineering, or related professional services required to prepare plans, drawings, specifications, or work write-ups; and jobs directly related to administrative support of these activities, e.g. construction manager, relocation specialist, payroll clerk, etc.

Low Income Person – families (including single persons) whose incomes do not exceed 80% of the area median family income, with adjustments for smaller and larger families.

New Hires – full-time employees for permanent, temporary, or seasonal employment opportunities.

Section 3 – Section 3 of the Housing and Urban Development Act of 1968, as amended (12 USC 1701u)

Section 3 Business Concern – a business concern,

- a. That is 51% or more owned by Section 3 residents; or
- b. Whose permanent, full-time employees include persons, at least 30-percent of whom are currently Section 3 residents, or within three years of the date of first employment with the business concern were Section 3 residents; or
- c. That provides evidence of a commitment to subcontract in excess of 25% of the dollar award of all subcontractors to be awarded to business concerns that meet the qualifications set forth in paragraph “a” or “b” above.

Section 3 Definitions (continued)

Section 3 Covered Assistance –

- a. Assistance provided under any HUD housing or community development program that is expended for work arising in connection with the construction, reconstruction, conversion, or rehabilitation of housing (including reduction and abatement of lead-based paint hazards), other public construction which includes buildings or improvements (regardless of ownership) assisted with housing or community development funds.
- b. Public housing development assistance provided pursuant to Section 4 of the 1937 Act;
- c. Public housing operating assistance provided pursuant to Section 9 of the 1937 Act;
- d. Public housing modernization assistance provided pursuant to Section 14 of the 1937 Act;

Section 3 Covered Contracts – a contract or subcontract (including a professional service contract) awarded by a recipient or contractor for work generated by the expenditure of Section 3 covered assistance, or for work generated by the expenditures of Section 3 covered assistance, or for work arising in connection with a Section 3 covered project. Section 3 covered contracts do not include contracts for the purchase of supplies and materials. However, whenever a contract for materials includes the installation of the materials, the contract constitutes a Section 3 covered contract.

Section 3 Resident – a public housing resident or an individual who resides in the metropolitan area or non-metropolitan county in which the Section 3 covered assistance is expended and who is considered to be a low to very-low income person.

Subcontractor – any entity (other than a person who is an employee of the contractor) which has a contract with a contractor to undertake a portion of the contractor's obligation for the performance of work generated by the expenditure of Section 3 covered assistance, or arising in connection with a Section 3 covered project.

Very low-income person – families (including eligible single persons) whose income does not exceed 50% of the area median family income, with adjustments for smaller and larger families.

Exhibit 10 Attachment 10-4: Resident Employment Opportunity Data

Eligibility for Preference

A section 3 resident seeking the preference in training and employment provided by this part shall certify, or submit evidence to the recipient contractor or subcontractor, if requested, that the person is a Section 3 resident, as defined in Section 135.5. (An example of evidence of eligibility for the preference is evidence of receipt of public assistance, or evidence of participation in a public assistance program).

Certification for Resident Seeking Section 3 Preference in Training and Employment

I, _____, am a legal resident of the _____ and meet the income eligibility guidelines for a low- or very-low-income person as published on the reverse.
My permanent address is: _____

I have attached the following documentation as evidence of my status:

- Copy of lease
- Copy of receipt of public assistance
- Copy of Evidence of participation in a public assistance program.
- Other evidence

Signature _____

Print Name Date _____

Exhibit 10 Attachment 10-5: Section 3 Report

Part I Agency and Contractor Information

Subrecipient /Contractor/Subcontractor Name:	Project Name:
	Contract Amount:
Report Date:	Contact Person Name: Phone Number:

Indicate the efforts you made to direct the employment and other economic opportunities generated by the CDBG financial assistance to the greatest extent feasible, toward low-and very low income persons, particularly those who are recipients of government assistance for housing. (Check all that apply.)

- Attempted to recruit low income residents through: local advertising media, signs prominently displayed at the project site, contacts with community organizations and public or private agencies operating within the metropolitan area (or non-metropolitan county) in which the Section 3 covered project is located or similar methods
- Participated in a HUD program or other program which promotes the training or employment of Section 3 residents
- Participated in a HUD program or other program that promotes the award of contracts to businesses that meet the definition of a Section 3 business.
- Coordinated with Youthbuild Programs administered in the metropolitan area in which the Section 3 covered projects is located.
- Other; describe below.

Part II Information Regarding Agency/ Contractor Employment

Subrecipient / Contractor/Subcontractor Name:		Project Name:			
		Contact Person Name:			
Report Date:		Phone Number:			
For Subrecipients: Did your agency receive \$200,000 or more of CDBG funds for this project? For Contractors/Consultants: Is your contract in excess of \$100,000? If yes continue, if no then stop. (note for subcontractors: Section 3 applies if the primary contract exceeds \$100,000)		Yes	No		
Were there any new hires by your organization that were generated in connection with the CDBG award/project? "New hire" is defined as full time positions that are either permanent, temporary or seasonal. A new hire can be for a new position or replacement of an existing position that became vacant. If yes, please complete the following table in its entirety. If no, then stop.		Yes	No		
Job Category	Number of New Hires	Number of New Hires that are Sec 3 Residents	% of Aggregate Number of Staff Hours of New Hires that are Section 3 Residents	% of Total Staff Hours for Section 3 Employees and Trainees	Number of Section 3 Employees and Trainees
Professionals					
Technicians					
Office/Clerical					
Construction by Trade (List)					
Trade					
Trade					
Other (List)					
Total					

Section 3 resident/employee definition: A resident of public housing (regardless of income), or an individual residing in the metropolitan area or non metropolitan county in which the CDBG assistance is expended and whose income is below 80% of the metropolitan or county median income as published by HUD.

Exhibit 10
Attachment 10-6: Section 3 Certification
(to be added to the contract)

- A. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- B. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.
- C. The contractor agrees to send to each labor organization or representative or workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- D. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.
- E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.
- F. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
- G. With respect to work performed in connection with Section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act .
- H. (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).
- I. The contractor also agrees to adopt a Local Opportunity Plan, maintain documentation to support its implementation and report not less than a quarterly basis the results of their Section 3 efforts.

Certification

"I certify that I understand and will follow the Section 3 requirements presented above and have the capacity to comply, document, and report as necessary."

WARNING: Falsifying information on this certification is a felony. HUD will prosecute false claims and statements. Conviction may result in civil and/or criminal penalties. (18 U.S.C. §§ 1001, 1010, 1012, 3559, 3571; 31 U.S.C. §§ 3729, 3802).

Name of Contractor: _____

By: _____

Title: _____

Date: _____

EXHIBIT 11
Travis County
Community Development Block Grant (CDBG) Program
Information to Assist with CCR and
D-U-N-S Number Registration

The Federal Funding Accountability and Transparency Act (the "Transparency Act" or "FFATA") requires that all primary grant awardees and their first tier grant awardees create and/or validate existing Central Contractor Registration (CCR) and Data Universal Numbering System (DUNS) registration data to be eligible for federal funds. All primary grant awardees must be registered, and ensure that their first tier awardees register *immediately*, following the guidance outlined below.

- **What is CCR?** The Central Contractor Registration (CCR) is the primary contractor database for the US Federal Government. CCR collects, validates, stores and disseminates data in support of agency acquisition missions. (Since October 1, 2003, it is Federally mandated that any organization wishing to do business with the Federal government under a Federal Acquisition Regulation (FAR)-based contract must be registered in CCR before being awarded a contract.) Because CCR is a Federally mandated and funded program, there is no cost to registrants for registering in CCR. Further detailed information on CCR is available at this URL: <http://www.ccr.gov/FAQ.aspx>
- **What is a D-U-N-S number and who provides it?** Dun & Bradstreet (D&B) maintains a business database containing information on more than 100 million businesses worldwide. D&B provides a D-U-N-S number, a unique 9-digit identification number, for each physical location of a business organization. D-U-N-S Number assignment is free for all businesses required to register with the U.S. Federal government for contracts or grants. The D-U-N-S number is used by the www.FederalReporting.gov solution to identify business organizations. Further detailed information on D&B is available at this URL: <http://fedgov.dnb.com/webform>.

Registering for a DUNS Number

1. To verify or register for a DUNS number, go to the Dun & Bradstreet Web site at: <http://fedgov.dnb.com/webform/displayHomePage.do>
2. The following information will be needed to obtain a DUNS number:
 - a. Name of organization
 - b. Organization address
 - c. Name of CEO/organization owner
 - d. Legal structure of the organization (corporation, partnership, proprietorship)
 - e. Year the organization started

- f. Primary type of business
- g. Total number of employees (full and part time)

Registering in CCR

1. To register with CCR, you can apply by phone (1-888-227-2423) or register online at <http://www.ccr.gov>.
2. If your organization is already registered, take note of who is listed as your E-Business Point of Contact (E-Biz POC). For applications being submitted through Grants.gov, this person will be responsible for authorizing who within your organization has the responsibility to submit applications.
3. The following information will be needed to register in CCR:
 - a. DUNS number
 - b. Tax Identification Number (TIN) and Taxpayer name used in federal tax matters
 - c. Statistical information about your organization
 - d. Electronic Funds Transfer (EFT) information for payment of invoices

Frequently Asked Questions

- **How long will it take to receive a DUNS number?** You usually receive a DUNS number within the same day.
- **How long will it take for my information to activate in CCR?** CCR takes one to three days to gather the internal organization information and prepare the application. If your organization already has an Employer Identification Number (EIN) or Taxpayer Identification Number (TIN), then you should allow a minimum of 48 hours to complete the entire CCR registration.

If your organization does not have an EIN or TIN, then you should allow two weeks for obtaining the information from IRS when requesting the EIN or TIN via phone or Internet. The reason for the one-to three-day delay is due to security information that needs to be mailed to the organization.

For More Information on the DUNS and CCR registration process, visit www.Grants.gov

**EXHIBIT 11
DUNS/CCR Certification
(Federally-Funded Projects)**

The undersigned is an authorized representative of a contractor or subcontractor performing work on a Travis County project that is partially or wholly funded by the U.S. Department of Housing and Urban Development (“HUD”) and makes the following certifications:

1. The Federal Funding Accountability and Transparency Act (“the Transparency Act” or “FFATA”) requires that all contractors and subcontractors who provide services for federally-funded projects must report at USAspending.gov (www.USAspending.gov).
2. The undersigned understands that the contractor/subcontractor is prohibited from contractually obligating project funds until potential subcontractors are reported to Travis County and the County provides clearance of the subcontractor.
3. The undersigned understands that the contractor/subcontractor has not entered into any contracts with any subcontractors which have not been cleared by the County.
4. The contractor/subcontractor has obtained a DUNS number and is currently registered in the Central Contractor Registration database (www.ccr.gov).
5. The undersigned understands that the County may withhold payment for the contractor/subcontractor’s failure to comply with FFATA reporting requirements.
6. The contractor and its subcontractors have the ability to obtain a DUNS number, maintain current registration in the CCR database, and comply with all FFATA reporting requirements.
7. The contractor/subcontractor will furnish all information and reports required by federal and state law.

WARNING: Falsifying information on this certification is a felony. HUD will prosecute false claims and statements. Conviction may result in civil and/or criminal penalties. (18 U.S.C. §§ 1001, 1010, 1012, 3559, 3571; 31 U.S.C. §§ 3729, 3802).

For: _____
(Name of Contractor)

By: _____
(Typed Name of Authorized Representative – Responsible Corporate Officer, General Partner, or Sole Proprietor)

Signature: _____

Date: _____

**EXHIBIT 12
TRAVIS COUNTY COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM
CONTRACTOR ELIGIBILITY VERIFICATION FORM**

Complete one form for each Contractor AND Subcontractor PRIOR to entering into a contractual agreement.

Project Name: _____ Contract Amount \$ _____

The following company is being considered as a possible (check one):

Prime Contractor Subcontractor

The firm is a: (check all that apply):

Sole Proprietorship Partnership Corporation
 Owner/Operator Woman Owned Business Section 3 Business Concern*
 (include documentation)
 HUB (Historically Underutilized Business)

Company's full legal name: _____

Company's Tax ID # _____ DUNS # _____ CCR Registration _____

Business Address: _____

Company's Contact for Wage Compliance questions:

Name: _____ Title: _____
 Phone # _____ Fax No. _____
 E-mail address: _____

Company Principals:

Name	Title	Phone Number
_____	_____	_____
_____	_____	_____
_____	_____	_____

Submit completed form to Travis County, Health and Human Services Department (HHS/VS), CDBG Program, P.O. Box 1748, Austin, Texas, 78767, or fax to 512-854-4115 to the attention of the CDBG Program. For questions or to obtain more information regarding the use of this form, contact Christy Moffett at 512-854-3460.

The prime or any subcontractors are prohibited from entering into any formal agreements or have a subcontractor begin work on a project until the Travis County Purchasing Office provides notice that the subcontractor has been cleared.

FOR OFFICE USE ONLY:

Verifications completed:

Not on the GSA "List of Excluded Parties"	Date: _____	BY: _____
Accurate DUNS Number	Date: _____	BY: _____
Registered with CCR	Date: _____	BY: _____
Section 3 Business	Date: _____	BY: _____
Clearance sent to Purchasing:	Date: _____	BY: _____

APPENDIX A**SCOPE OF SERVICES****SERVICES TO BE PROVIDED BY THE ENGINEER
FOR
LAKE OAK ESTATES SUBSTANDARD ROAD IMPROVEMENTS**

PROJECT:	Lake Oaks Substandard Road Improvements
LIMITS:	Various Streets (N. Meadowlark St., Holly Lane, Bowling Lane, Cavalier Canyon Dr., Covenant Canyon Trail, Unnamed Road 222 and Unnamed Road 224)
COUNTY:	Travis County
PROJECT LENGTH:	Varies

The Engineer will provide the following engineering services required for the preparation of plans, specifications, and estimates (PS&E), and any related documents necessary for PS&E preparation for the construction of the Lake Oaks Subdivision Substandard Roads (North Meadowlark St., Holly Lane, Bowling Lane, Cavalier Canyon Dr., Covenant Canyon Trail, Unnamed Road 222 and Unnamed Road 224) in Travis County. The project is located within the City of Lakeway ETJ and Travis County, Precinct 3. The project includes the preparation of design schematic, meeting with affected property owners, public meeting, roadway design, hydrology and hydraulics, signing and pavement markings and preparation of environmental document in compliance with NEPA criteria.

The construction plan set for this project will contain the required drawings and details pertaining to roadway design, storm water drainage system analysis and design (may include water quality and detention), and; preparing construction documents; completing land surveys, geotechnical investigations and reports with analysis needed for pavement design, and alignment and intersection plans and analysis; developing roadway signage and pavement marking plans, traffic control plans, and plans for landscaping; designing and/or coordinating utility relocations; completing environmental assessments and mitigation plans; monitoring project cost and applying cost recovery methodologies such as value engineering; preparing and executing project management, risk reduction and QA/QC plans; attending and leading public meetings; determining requirements for right-of-way and easements, preparing schematic and final easement parcel exhibits, and acquiring all appropriate regulatory permits and clearances. The above-described plan set will be prepared in English units, and will be suitable for the bidding and award of a contract through Travis County. This project will be completed in two phases. There will be two plan sets for the project with approximately half of the roads to be completed on each plan set.

Services related to the design and plan production for this project will be performed in accordance with the latest available TxDOT design manuals. City of Austin details and specifications will be used for the erosion control. The roadway will be designed based on Local Road (2 lanes), and the design speed will be 30 MPH or less if 30 MPH is not feasible.

The Engineer will establish a roadway geometry model and perform earthwork and paving quantity calculations using GEOPAK. The CADD and GEOPAK criteria files, which comprise the geometry model, will be provided to Travis County at the completion of the project. This project will be

developed using Microstation V8 and GEOPAK 2004.

Hydraulic designs and calculations for storm drains and hydraulics will be performed with PC-based hydraulic models such as WinStorm, GEOPAK Drainage, HECRAS, HEC-HMS, or other hydraulic models approved in advance by Travis County. Manual calculation checks of culvert hydraulics will be performed on specific structures at the request of the county.

The services for the PS&E production will be performed according to the schedule in Exhibit C and will include the tasks and products more fully described in the following Task Outline.

The required work products include Work Product 1, 30% complete design documents; Work Product 2, 60% complete design documents; Work Product 3, 90% complete design documents; and Work Product 4, the 100% bid-ready set of construction documents. Each Work Product will be submitted for review and written notice-to-proceed must be issued by the County Purchasing Agent before proceeding to the next Work Product. The review process will consist of submitting six (6) sets of the plans (11"X17") as agreed by the County project manager and the Engineer in the early stages of the project, specifications, and estimates of probable construction costs to TNR when the design is 30%, 60%, 90% and 100% completed. Each submittal shall include a cover letter from the consultant stating who from their design team performed a Quality Assurance/Quality Control Check. Allow two weeks for TNR to review and provide written comments and/or approval for each submittal. Submit two final check sets and allow three weeks for TNR to review and provide written comments and/or approval. Environmental review will take three weeks.

PROJECT MANAGEMENT

1. Attend Project Kick-off Meeting
2. Provide Contract Administration
3. Provide Project Management
4. Coordinate with Travis County
5. Coordinate with property owners
6. Prepare project correspondence
7. Update project schedule
8. Prepare project progress report
9. Prepare project invoices

QUALITY ASSURANCE & QUALITY CONTROL

1. Perform QA/QC for 30%
2. Perform QA/QC for 60%
3. Perform QA/QC for 90%
4. Perform QA/QC for 100%

PRELIMINARY DESIGN

1. Conduct site visit and prepare inventory of existing features within project area
2. Prepare Photo Log
3. Establish Design Criteria
4. Obtain existing available information pertaining to the project
5. Prepare the Design Summary Report (DSR)

6. Attend and participate in the Design Concept Conference
7. Prepare minutes of the DCC
8. Prepare preliminary cost estimate
9. Perform Value Engineering
10. Perform soil core holes for pavement design

The soil borings will be properly backfilled with bentonite chips and a single lift of cold patch asphalt where applicable. The soil samples will be obtained using shelby tubes and/or split-spoon samplers. Field-testing of soil samples will include pocket penetrometer in the cohesive soils and Standard Penetration Test (SPT) in the cohesionless soils.

All the field sampling and laboratory tests will be performed according to typical geotechnical standards, where applicable, or with other well established procedures. The Engineer will perform appropriate laboratory tests on soil samples recovered from the borings. Laboratory testing will include moisture content, liquid limit, plastic limit, unconfined compression, and particle size analysis tests. In addition, the Engineer will test for sulfate content of the subgrade samples. The Engineer will also provide a cement series test to recommend the percentage of cement necessary for the base/HMAC recycling.

The Engineer will provide geotechnical analysis needed for pavement design. Additional detail regarding pavement design scope follows.

Pavement Design

The Engineer will prepare a pavement section to achieve a 20-Year Design Life. Existing paved roads will be overlaid with 1.5 inch HMAC. The county will approve the paving materials to be considered. The pavement design will include consideration of traffic loads to be provided to the Engineer, lab test results, borings and NDT analyses. The TxDOT pavement design procedure will be followed, using FPS21 analysis program. The traffic data required includes current and projected traffic counts and truck percentages.

Because the roads are existing and critical information needs to be obtained regarding any variations in subgrade support and in-place pavement strength, the Engineer proposes to utilize nondestructive deflection testing (NDT) with the Falling Weight Deflectometer (FWD). The use of NDT is crucial for consideration of overlays to accurately account for the in-place strength of the existing pavement. The data will be used to finalize boring locations to ensure geotechnical data is collected for any changes in subgrade conditions or pavement layer changes as identified in profiles of the NDT data.

With only five (5) borings, generally one per street, use of NDT to locate the borings is important to assess weak areas to confirm adequate thickness for recycling consideration and to determine if overlay is appropriate for the weakest/thinnest pavement sections. The data will be used to calculate subgrade design parameters, as per TxDOT requirements as well as the existing pavement strength for consideration of overlay design.

Engineering Report

The Engineer anticipates providing geotechnical and pavement design report for use on the project. The following items will be included in the Engineer's geotechnical report:

- a) Site Vicinity map,
- b) Geology map,
- c) Plan of borings,

- d) Boring logs,
- e) Laboratory test results summary,
- f) Groundwater conditions,
- g) Generalized subsurface conditions,
- h) Pavement thickness designs (one overlay and one reconstruction/recycle option), and
- i) General earthwork recommendations.

ENVIRONMENTAL STUDIES AND PUBLIC INVOLVMENT

The Engineer will prepare an environmental assessment document to qualify the project as a Categorical Exclusion. The Environmental Assessment will be included with the Categorical Exclusion Worksheet to be signed by the Travis County Judge.

1. Project Management, Communications, Quality Assurance and Quality Control

Hours have been included for project management, coordination, and communications to ensure overall project efficiency. Quality Assurance and Quality Control reviews will take place for all submittals.

2. Preparation of an Environmental Assessment to qualify the project as a Categorical Exclusion

An Environment Assessment will be prepared to comply with 24 CFR Part 58.5, Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities. Major parts of the document are identified as subtasks as noted below.

2.1. Project Description and Need

The document will include a project description and an explanation of the purpose of and need for the project.

2.2 Descriptions of Alternatives

Descriptions of project alternatives will be prepared, including No Action and Proposed Action alternatives. The descriptions will be based on engineering information.

2.3 Affected Environment and Impacts

Components of the affected environment to include land use, historic preservation, floodplains, water quality, wetlands and waters of the U.S., Coastal Zone Management, sole source aquifers, vegetation, threatened and endangered species, Wild And Scenic Rivers, air quality, farmland protection, environmental justice, hazardous materials, noise, and airport clear zones/ accident potential zones will be described, per HUD requirements. Effects of the project alternatives on the existing natural and cultural resources will be evaluated. This will include effects of the alternatives on components of the environment and a comparison of impacts between the alternatives.

Land Use

The total land area that will be disturbed by construction and/or directly or indirectly impacted by the project will be quantified by land use/soil type. If necessary, Form AD-1006 will be completed with the required input from the Natural Resources Conservation Service (NRCS). Determine whether the proposed project is located within 2,500 feet of a civilian airport runway or within 8,000 feet of a military airport runway.

Historic Preservation

As the proposed project will take place on land to be owned and controlled by Travis County, a political subdivision of the State of Texas, the project is required to comply with the Antiquities Code of Texas (ACT). Additionally, the project will receive funding through HUD, necessitating coordination under Section 106 of the National Historic Preservation Act (NHPA) of 1966, as amended. Identify previously designated historic resources (including archeological sites and sites listed on the National Register of Historic Places) in the project area, and will coordinate with the Texas Historical Commission to determine whether field survey is necessary. If surveys are required, this task would be accomplished under a separate scope and budget.

Floodplains

Federal Emergency Management Agency (FEMA) and US Army Corps of Engineers (USACE) floodplain data will be accessed to determine whether the site is within the 100 year floodplain.

Water Quality

A discussion of the project area hydrologic data, including watershed/river basin information and water quality, and a description of the project area surface water features, will be included. The proposed project is not located over the Edwards Aquifer transition, contributing, or recharge zones. The Engineer will describe the relevant TCEQ issues for compliance and provide coordination assistance if necessary.

Wetlands and Waters of the US

The baseline data collection will determine whether the project area includes waters of the U.S. including wetlands that are subject to U.S. Army Corps of Engineers (USACE) jurisdiction. This will be accomplished through the use of National Wetland Inventory (NWI) maps and field reconnaissance. While a review of the maps and aerial photography near the proposed project indicates that jurisdictional waters of the U.S. will not likely be impacted, this will be confirmed in the field. If jurisdictional wetlands are identified, documentation according to USACE protocol under Section 404 of the Clean Water Act will be prepared. It is not anticipated that any additional coordination with the USACE will be required at this site.

Vegetation

The Engineer will characterize project area vegetation, including the relative amount of each vegetation type, based on existing literature and a site investigation. Impacts to vegetation will be quantified by type.

Threatened and Endangered Species

The Engineer will review the lists of designated T&E species for Travis County prepared by the Texas Parks and Wildlife Department (TPWD) as well as the US Fish and Wildlife Service (USFWS). The Engineer will also submit a request to search the TPWD Texas Natural Diversity Database (TxNDD) for known occurrences of species of concern in the specific vicinity project area. The Engineer will evaluate the potential impacts of the proposed project and alternatives on any state or federally designated T&E species and/or designated critical habitat. A field investigation will be conducted to determine whether or not any habitat appropriate for listed species is located in the project area.

Air Quality

The Engineer will review the State Implementation Plan (SIP) to determine which of the proposed project's construction activities (if any) must comply with the SIP. Hicks & Company will determine the status of project area regarding compliance with ambient air quality standards.

Environmental Justice

This portion of the analysis will include baseline socioeconomic information regarding population, race, income, and English proficiency for Travis County and the Census blocks and block groups in the vicinity of the project. These efforts will determine whether the project will be located in a minority or low-income community and whether potential effects will need to be evaluated as an environmental justice concern. If minority and low-income populations are identified in the project vicinity, The Engineer will analyze the potential impact of the project that may pose disproportionate environmental effects to these populations.

Hazardous Materials

An ASTM database search for hazardous materials will be conducted and analyzed for this project. A summary of known hazardous materials sites in the project vicinity will be presented and the property will generally be assessed to determine whether hazardous materials appear to present issues for the project.

Noise

The impact of the noise levels related to the construction and operation of the project at nearby residences and other locations of frequent human use will be evaluated.

Public Involvement Summary

Summarize public involvement activities to date for inclusion in the environmental document.

3 DOCUMENT PRODUCTION

This task includes word processing, document formatting, design and production of figures, and final production of document copies.

RIGHT OF WAY AND UTILITIES

1. Perform Utility Coordination with identified utilities

WATER LINE MINOR ADJUSTMENT ANALYSIS & DESIGN

1. DATA COLLECTION – The Engineer will collect and review the existing water line data for the Lake Oaks subdivision from Travis County WCID #17. The Engineer will conduct field investigations to review existing valve and appurtenance locations.
2. WATER LINE CONFLICT IDENTIFICATION - The Engineer will review the proposed roadway improvements and determine potential conflicts with water lines and appurtenances.
3. WATER LINE MINOR ADJUSTMENTS – The Engineer will prepare adjustment details for minor modifications to valve elevations or hydrant locations, as necessary. **One Plan Sheet and One Detail Sheet are anticipated.**

ROADWAY DESIGN CONTROLS

1. Provide roadway design in accordance with the current edition of AASHTO. The Engineer will develop roadway geometry and provide plan and profile sheets showing all applicable items from the following list:
 - A. Calculated roadway centerlines for streets. Show horizontal control points.
 - B. Pavement edges for all improvements
 - C. Lane and pavement width dimensions
 - D. Locations, lengths, and widths of proposed structures
 - E. Traffic flow direction on all roadways. Show lane lines and/or arrows indicating the number of lanes.
 - F. Existing right of way lines, and all easements
 - G. Begin and end superelevation transitions and cross-slope changes
 - H. Limits of rip-rap, block sod, and seeding
 - I. Locations of existing structures
 - J. Benchmark information
 - K. Calculated profile grade
 - L. Vertical and horizontal curve data
 - M. Existing and proposed profiles along the centerline
 - N. Water surface elevations for 10-, 25-, 50-, and 100- year storms
 - O. Locations of known subsurface utilities
 - P. Subgrade elevations at profile grade lines and ditch flow lines, labeled with offsets and elevations
 - Q. Locations of proposed and existing drainage features
2. Title Sheet
3. Index of Sheets
4. Project Layout
5. Develop Typical Sections
6. Establish Horizontal Alignments
7. Establish Roadway Geometry
8. Establish Vertical Alignments
9. Establish roadway super-elevation
10. Develop design cross-sections for all roadways. Submit design cross-sections in electronic format and on 11"x 17" paper sheets. Provide the following details for each section, as applicable:
 - A. Widths of all travel lanes, shoulders, outer separations, borders, curb offsets, and rights of way.
 - B. Control lines including profile grade line
 - C. Existing natural ground line, finished grade line, and subgrade elevations at profile grade lines and ditch flow lines. Label all control lines with offsets and elevations.
 - D. Limits of sodding/seeding, riprap, embankments, and excavations
 - E. Locations and identification of proposed structures such as retaining walls
 - F. Extents and geometry for all side slopes
11. Prepare Horizontal Alignment Data Sheet
12. Prepare Plan & Profile Sheets
13. Cross Sections (100 feet intervals)
14. Intersection Detail Sheets
15. Driveway Summary Table
16. Summary of Quantities

HYDROLOGY AND HYDRAULICS

1. **DATA COLLECTION** – The Engineer will collect and review the existing drainage data for the Lake Oaks subdivision. The Engineer will conduct field investigations to observe existing runoff and channel characteristics.
2. **HYDROLOGY / EXTERIOR DRAINAGE AREA MAPS** – The Engineer will compute existing and proposed conditions hydrology using HEC-HMS to establish flow rates at all locations where runoff leaves the subdivision.
3. **HYDROLOGY / INTERIOR DRAINAGE AREA** – The Engineer will compute peak flow rates at interior locations of interest throughout the subdivision using HEC-HMS or the Rational Method, where appropriate.
4. **HYDRAULICS** – The Engineer will compute existing and proposed conditions roadside channel hydraulics using normal depth computations. The Engineer will compute culvert hydraulics using FHWA HY-8. Culverts will be designed for the 25 year storm event, and checked for the 100 year storm. If 25 year storm is not feasible, the engineer will seek approval by the county to use a lesser frequency.
5. **CULVERT LAYOUTS AND HYDRAULIC DATA SHEETS** – The Engineer will prepare preliminary culvert layouts and hydraulic data sheets for the cross drainage structures. **Four culvert crossings are anticipated.**
6. **ROADWAY PLAN & PROFILE, CROSS SECTION COORDINATION** – The Engineer will coordinate to optimize the roadway design to accommodate the drainage requirements of the subdivision, including such elements as valley gutters, driveway culverts and gutters, and roadway cross slope.
7. **DRAINAGE REPORT** – The Engineer will prepare a comprehensive drainage study and a signed, sealed and dated report of the project. Create 1"=1000' drainage area map for report. Produce Hydraulic Data Sheets.

SIGNING AND PAVEMENT MARKINGS

1. Prepare Signing and pavement markings Layout
2. Prepare Small Signs Details
3. Determine Pavement Markings Quantities
4. Prepare Pavement Markings Summary
5. Prepare Signing Summary
6. Prepare Signing & Pavement Markings Miscellaneous Details

MISCELLANEOUS

1. Prepare Title Sheet
2. Prepare Index Sheet
3. Prepare Project Layout Sheet
4. Prepare Traffic Control Plan and Sequence of Construction

5. Prepare Temporary and Permanent Erosion Control Plan
6. Prepare Construction Cost Estimates
7. Determine TCP Quantities
8. Prepare TCP Summary Sheets
9. Develop Construction Sequence Narrative
10. Advance Warning Signs Layout
11. Develop Construction Time Estimate
12. Prepare General Notes
13. Prepare Special Specifications
14. Identify and Select Standard Details

PS&E ASSEMBLY

1. Prepare Contract Documents

DELIVERABLES ITEMS REQUIRED FROM THE ENGINEER

1. Provide to the County an electronic deliverable (CD ROM) of all design documents (including standard drawings) for this project at the project's completion.
2. Provide to the County two (2) copies of the preliminary and final retaining wall layouts, typical sections, and construction phasing details.
3. The Engineer will make 30%, 60%, 90% and 100% PS&E submittals. The 60% and 90% submittals are intended as a means of obtaining County review comments which will be addressed in the final 100% submittal.
4. Assemble plans for project milestones. Submit the following:
 - A. Five reproducible paper (11" x17") copies of the plans to the County Project Manager at the 30%, 60%, 90%, and 100% design completion stages.
 - B. One electronic copy of the plans in .PDF format to the County Project Manager.
5. Included in milestone submittals:
 - A. 30% Review Submittal
 - Title Sheet
 - Index of Sheets
 - Typical Sections
 - Traffic Control Typical Sections
 - Traffic Control Concept
 - Preliminary Roadway Plan & Profile Sheets
 - Preliminary Hydraulic Report
 - Draft Environmental Document
 - Draft Pavement Report
 - Cross Sections
 - Engineer's Estimate
 - B. 60% Review Submittal
 - Final Environmental Assessment
 - Title Sheet
 - Index of Sheets
 - Typical Sections
 - Traffic Control Typical Sections

Traffic Control Plans
 Roadway Plan & Profile Sheets
 Roadway and Intersection Details
 Drainage Area Maps
 SWPPP Sheets
 Temporary Erosion Control Sheets
 Permanent Erosion Control Sheets
 Signing and Marking Sheets
 Standards
 Cross Sections
 Engineer's Estimate

C. 90% Review Submittal and 100% Submittal

Tile Sheet
 Index of Sheets
 Summaries
 General Notes, Specifications, and Construction Schedule
 Typical Sections
 Traffic Control Typical Sections
 Traffic Control Plans
 Roadway Plan & Profile Sheets
 Roadway and Intersection Details
 Drainage Area Maps
 SWPPP Sheets
 Temporary Erosion Control Sheets
 Permanent Erosion Control Sheets
 Signing and Marking Sheets
 Standards
 Specifications
 Cross Sections
 Engineer's Estimate

Deliverable List

Work Product 1 (30% Design) 90 Calendar Days

Project Kick-off Meeting
 Data Collection for Pavement Design
 Data Collection for Environmental Document
 Data Collection for Utilities
 Data Collection for Drainage
 Preliminary Cover Sheet
 Preliminary Typical Section
 Preliminary Roadway Layout for entire project
 Preliminary Traffic Control Concept for entire project
 Preliminary Cross Sections
 Identify Limits of Construction
 Preliminary Easement Locations
 Preliminary Cost Estimate

Draft Pavement Report
 Draft Environmental Document
 Preliminary list of permits
 Public Meeting
 Update Design Schedule
 QA/QC Mark ups

Work Product 2 (60% Design) 60 Calendar Days

Complete Environmental Document
 Completed Pavement Report
 Completed Drainage Report
 Cover Sheet
 Typical Sections
 Preliminary General Notes
 Traffic Control Sheets
 Narrative Sequence of Construction
 Plan & Profile Sheets
 Cross Sections
 Drainage Area Maps
 Drainage Calculation Sheets
 Drainage Layout Sheets
 Cost Estimate
 Final list of permits
 Preliminary ROW Strip Maps
 Construction Time Estimate
 Update Design Schedule
 QA/QC Mark ups

Work Product 3 (90% Design) 30 Calendar Days

Complete Plan Set
 Standard Details
 Cross Sections
 Specifications
 Utility relocation plan
 Construction Time Estimate
 Final ROW or Easement Documents
 QA/QC Mark ups

Work Product 4 (100% Design) 30 Calendar Days

Complete Plan set (Sealed and Signed by PE) two copies
 Complete Plan Set (Sealed and Signed by PE) in PDF format
 Redlined marked up set
 Final Specifications and Special Conditions
 Final Cost Estimate

Work Product 5 (Construction Phase Services) To be determined at later date

**SERVICES TO BE PROVIDED BY THE COUNTY
FOR
LAKE OAKS ESTATES SUBSTANDARD ROAD IMPROVEMENTS**

PROJECT: Lake Oaks Estates Substandard Road Improvements
LIMITS: Various Streets (N. Meadowlark St., Holly Lane, Bowling Lane, Cavalier Canyon Dr., Covenant Canyon Trail, Unnamed Road 222 and Unnamed Road 224)
COUNTY: Travis County
PROJECT LENGTH: Varies

The County will provide the following services required for the preparation of plans, specifications, and estimates (PS&E), and any related documents necessary for PS&E preparation for the construction of the Lake Oaks Subdivision Substandard Roads (North Meadowlark St., Holly Lane, Bowling Lane, Cavalier Canyon Dr., Covenant Canyon Trail, Unnamed Road 222 and Unnamed Road 224) in Travis County. The project is located within the City of Lakeway ETJ and Travis County, Precinct 3. The project includes the preparation of design schematic, meeting with affected property owners, public meeting, roadway design, hydrology and hydraulics, signing and pavement markings and preparation of environmental document in compliance with NEPA criteria.

The County will provide to or perform for the Engineer the following items, as appropriate:

1. Horizontal and vertical control sheet provided by Travis County Surveyor.
2. Travis County Substandard Roads Design requirements
3. Topographic information gathered and base map in electronic format.
4. Sample of control sketch and overall sketch for control monuments will be part of the horizontal and vertical control sheets.
5. Travis County will supply a copy of the existing plat.
6. Applicable special specifications, special provisions, Travis County standard general notes, and latest bid tabulations.
7. Travis County design standard drawings, and standard summary and border sheets.
8. Timely reviews, and decisions necessary for the Engineer to maintain the agreed upon work schedule.
9. Coordinate and notify local Emergency Medical Services, local school districts, the U.S. Postal Service, and other local entities in writing of any detour routes/roadway closures. The Engineer shall prepare the necessary exhibits.
10. The only approval necessary for the project is for the CDBG survey. Travis County will assist in obtaining approval of the environmental documentation from HUD.
11. Conduct a Design Kick-Off meeting and provide the Design Elements (DE) form, in electronic format.
12. Attend 30% Review Meeting, 60% Review Meeting, and 60% Traffic Control Review Meeting. Minutes to be taken by the engineer.

13. Coordination with the Engineer corresponding to drainage and Flood Plains.
14. Conduct field surveying to establish project geometry and control points, including project baseline, horizontal and vertical control points, and project centerline. Provide the Engineer with items from the following list, as applicable:
 - A. Copy of the Field Notes
 - B. Location of project baseline and centerline, established within accuracy standards
 - C. All visible utilities included in survey.
 - D. Survey Control Sheet and Horizontal and Vertical Control Sheet signed, sealed, and dated by a registered public land surveyor
 - E. Stake preliminary location of bore holes prior to drilling by the Engineer.
 - F. Locate and record final bore holes based on station and offset. Also provide elevation at top of holes.
 - G. Update topo file to include bore hole information.

APPENDIX B

CONSULTANT'S QUALIFICATIONS STATEMENT

(SEE CONTRACT FILE)