



Travis County Commissioners Court Agenda Request

Meeting Date: October 29, 2013

Prepared By/Phone Number: Jorge Talavera, CPPO, CPPB/854-9762, Marvin Brice, CPPB

Elected/Appointed Official/Dept. Head: Cyd V. Grimes, C.P.M., CPPO

Commissioners Court Sponsor: Judge Biscoe

Agenda Language:

Approve contract award for Mechanical, Electrical, Plumbing (MEP) Engineering Services for Domestic Water Boiler Replacement at Travis County Correctional Complex (TCCC) Bldg. 400 (12) to Encotech Engineering Consultants, 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.

The Travis County Sheriff's Office (TCSO) currently requires professional MEP engineering services for domestic water boiler replacement at the TCCC, 3614 Bill Price Road, Del Valle, Texas. The purpose of this project is to design the replacement of the existing water boilers in TCCC Building 400 (12) to better meet the needs of the building.

TCSO and the Purchasing Office have negotiated the terms and fees of a Professional Services Agreement (PSA) with Encotech Engineering Consultants, Inc., a pre-qualified professional engineering firm with expertise in this type of service recommended by TCSO as the most highly qualified firm to complete this project.

TCSO recommends, and Purchasing concurs, that the County award a PSA to Encotech Engineering Consultants, Inc. in the amount of \$99,350.00 (\$99,100.00 Basic Services Fee and \$250.00 Not-to-Exceed Reimbursable Expenses). As a matter of interest to the Court, Encotech Engineering Consultants, Inc. is a certified Historically Underutilized Business.

➤ **Contract-Related Information:**

Award Amount: \$99,350.00

Contract Type: Professional Services

Contract Period: Through Completion of Services

➤ **Funding Information:**

SAP Shopping Cart #:

Funding Account(s): 1378000001 / 522020

Comments: FRD No. 300000693



JAMES N. SYLVESTER
Chief Deputy

GREG HAMILTON

TRAVIS COUNTY SHERIFF

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(512) 854-9770
www.tcsheriff.org

PHYLLIS CLAIR
Major - Law Enforcement

DARREN LONG
Major - Corrections

MARK SAWA
Major - Administration & Support

Date: October 14, 2013

TO: **Cyd Grimes**, CPM, CPPO, Purchasing Agent

FROM: **Wallace Sefcik**, Maintenance Manager

Wallace S Sefcik
10-14-2013

RE: **Award Recommendation Memo** Professional Services
PSA No. 4400001662, MEP Engineering Services for Domestic
Water Boiler Replacement at TCCC Building 400 (12)

Award ENCOTECH Engineering Consultants, Inc. and Proceed with MEP
Engineering Services for Domestic Water Boiler Replacement at TCCC
Building 400.

The TCSO Maintenance Section has reviewed the terms and fees for this
contract that TC Purchasing has negotiated. The TCSO Maintenance
Section accepts and recommends ENCOTECH Engineering Consultants,
Inc., to perform the required work as per the scope of work.

Funds Reservation # 300000693

Fund Account # 1378000001

GL # 522020

CC: Michael Gottner, Captain Corrections
Maria Wedhorn, Financial Analyst Senior
Thomas Perfetto, Building Maintenance Supervisor
Ron Rizzato, Accountant Associate
Jorge Talavera, CPPO, CPPB, Purchasing Agent Assistant IV
Marvin Brice, CPPB, Assistant Purchasing Agent

PROFESSIONAL SERVICES AGREEMENT

BETWEEN

TRAVIS COUNTY

AND

ENCOTECH ENGINEERING CONSULTANTS

FOR

**MECHANICAL, ELECTRICAL, PLUMBING (MEP) ENGINEERING
CONSULTING SERVICES**

FOR

**DOMESTIC WATER BOILER REPLACEMENT IN BUILDING 400
(BUILDING 12)**

CONTRACT NO. 4400001662

PROFESSIONAL SERVICES AGREEMENT (PSA)

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PROFESSIONAL SERVICES AGREEMENT ("PSA")

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

This Agreement (this "Agreement") is made and entered into by and between Travis County, Texas, a political subdivision of the State of Texas ("County") and Consultant ("Consultant") (each a "Party" and, collectively, the "Parties").

County desires to obtain professional mechanical, electrical and plumbing (MEP) engineering consulting services for domestic water boiler replacement at the Travis County Correctional Complex (TCCC) Building 400 (Building 12) (the "Project");

Consultant has the professional ability and expertise to fulfill the requirements of the Project, and to counsel County in the selection and analysis of cost-effective alternatives.

In consideration of the mutual covenants and agreements set forth in this Agreement, the amount and sufficiency of which are acknowledged, County and Consultant agree as follows:

**SECTION 1
EMPLOYMENT OF THE CONSULTANT**

- 1.1 The Travis County Sheriff's Office (the "County Sheriff") has designated a primary Project representative to act on behalf of County with respect to the work to be performed under this Agreement (the "County Project Manager"). The County Project Manager, in consultation with the County Sheriff, has the authority to interpret and define County's policies and decisions with respect to Consultant's services. The County Project Manager may designate representatives to transmit instructions and receive information. The County Project Manager will supervise the performance of Consultant's services under this Agreement. Consultant must cooperate fully with the County Project Manager in the performance of services under this Agreement.
- 1.2 County is contracting with Consultant as an independent contractor. Consultant shall perform professional engineering services as described in this Agreement. If any dispute arises under this Agreement, Consultant and the County Project Manager specifically agree to make a good faith effort to resolve the dispute directly between them. If they are unable to resolve the matter to Consultant's satisfaction, Consultant may appeal the dispute by following the procedures described in Paragraph 11.9 of this Agreement.
- 1.3 County will provide Consultant convenient access to all existing plans, maps, studies, reports, field notes, statistics, computations, and other data in its possession relating to existing facilities and to the Project. Consultant shall make copies of needed information and promptly return all originals. The cost of such copies will be a reimbursable expense. Consultant shall return his copies of this material to County upon completion of the Project, if the County

Project Manager instructs the Consultant to do so.

- 1.4 County cannot and does not warrant or guarantee the accuracy of all information that it provides to Consultant. Consultant may rely on professional sealed documents to the extent that the original professional would have been held liable for the information contained in those document, 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 Consultant in accordance with his professional judgment. Consultant may rely on other Project information provided by County, such as program data or design criteria, in accordance with industry standards, unless this Agreement provides otherwise.
- 1.5 If the County Project Manager observes or otherwise becomes aware of any fault or defect in the Work Product, as defined in Section 7, the County Project Manager will give prompt written notice of the fault or defect to Consultant. Consultant shall correct any such fault or defect at no cost to County.
- 1.6 The Travis County Commissioners Court orders this Agreement for professional engineering services exempt from the County Purchasing Act pursuant to Texas Local Government Code § 262.024(4) as an item for procurement of professional services.
- 1.7 Project Management; Key Personnel. Consultant shall provide management for the Project in accordance with the Organizational Chart set forth as **Appendix B**, attached hereto and made a part hereof. Personnel included in the Organizational Chart shall be considered "Key Personnel" for purposes of this Project. Except in the event that the Key Personnel individual is no longer employed by (or otherwise under the direction and control of) Consultant, none of the Key Personnel may be withdrawn from the Project without County's prior written approval; provided, however, Consultant shall have the right to change Key Personnel if Consultant complies with the following conditions: (1) Consultant provides County with at least fifteen (15) business days prior written notice that Consultant intends to replace a Key Personnel individual; (2) the notice is accompanied by a copy of the resume of any proposed replacement Key Personnel, together with documentation demonstrating that the proposed replacement has equal or greater experience and qualifications than the original Key Personnel individual; and (3) Consultant permits County to interview the proposed replacement Key Personnel individual for the purpose of satisfying itself that the proposed replacement is acceptable. County will notify Consultant within seven (7) calendar days of conducting the interview of any objection to the proposed replacement, and will either request additional assurances regarding the proposed replacement or require Consultant to submit the name and qualifications of another replacement Key Personnel individual. Such process will continue until Consultant proposes a replacement Key Personnel individual acceptable to County. County agrees not to unreasonably withhold such acceptance. In the event a Key Personnel individual leaves the employment of Consultant unexpectedly and without advance notice, Consultant will immediately notify County upon learning of the departure and will comply with the requirements of this section.

SECTION 2 BASIC SERVICES OF CONSULTANT

- 2.1 Consultant shall be responsible for the complete design and documentation of the work described or referenced in this Agreement, and shall prepare the Work Product, , which must be acceptable to the County Project Manager. Consultant shall also serve as County's professional consultant during the Project phases to which this Agreement applies, and shall consult with and give advice to County during the performance of the Project.
- 2.2 Consultant shall perform the "Basic Services," which means:
- 2.2.1 all elements of labor, materials and equipment required for the Project, which must be rendered to the satisfaction of the County Project Manager 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 as specified in **Appendix A**, attached to and made a part of this Agreement for all purposes (the "Scope of Services");
 - 2.2.3 the Work Product, as defined herein, which Consultant shall submit to County for review at regular intervals, as specified in the Project Schedule to be provided by Consultant. The requirements applicable to the Project Schedule are specified in Exhibit 3.
- 2.3 Consultant shall use all applicable codes in performing the Basic Services for the Project. The standards, codes, specifications, or other technical, design or professional requirements that apply to this Project are the latest edition in effect on the date on which this PSA is executed, unless Consultant and County expressly agree otherwise. The applicable codes for this Project include, but are not limited to:
- a. International Building Code with City of Austin amendments
 - b. International Fire Code with City of Austin amendments
 - c. Uniform Plumbing Code with City of Austin amendments
 - d. Uniform Mechanical Code with City of Austin amendments
 - e. International Energy Code with City of Austin amendments
 - f. National Electrical Code with City of Austin amendments
 - g. Texas Accessibility Standards
- 2.4 As part of the Basic Services, Consultant shall report to the County any suspected hazardous materials in the areas of proposed construction. Hazardous materials assessment and abatement work will be provided by County under separate contract.

SECTION 3 CONSTRUCTION COST

- 3.1 The construction cost is the total cost to County of all elements of the Project designed or specified by 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, materials and any equipment that the

Consultant has designed, specified, selected, or specially provided for Consultant; and (ii) of permitting fees and other fees and charges required by the City of Austin or other governmental authorities. The Construction Cost does not include the compensation of Consultant or other consultants.

- 3.3 Detailed estimates of the Construction Cost prepared by Consultant represent Consultant's best judgment as a design professional familiar with the construction industry. It is recognized, however, that neither Consultant nor County has control over the cost of labor, materials, or equipment; over the contractor's methods of determining bid prices; or over competitive bidding, market, or negotiating conditions.
- 3.4 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, and may include in the Work Product alternate bids to adjust the Construction Cost to the fixed limit.
- 3.5 If the Bidding Phase (as described in the Scope of Services) has not commenced within one (1) month after Consultant submits the Work Product for that phase to County, Consultant shall adjust any Project budget or fixed limit of Construction Cost, Consultant if directed by County. This adjustment work will be considered an Additional Service, as defined in Section 4, if the delay was not caused by Consultant. The adjusted Project budget or fixed limit will reflect any change in the general level of prices in the construction industry between the date of submission of the Work Product and the date on which bids are sought.
- 3.6 If the Project budget or fixed limit of Construction Cost is exceeded by the lowest responsible bid, County may:
- (1) approve, in writing, an increase in the Project budget or fixed limit;
 - (2) authorize rebidding of the Project within a reasonable time;
 - (3) terminate this Agreement and abandon the Project; or
 - (4) revise the scope of the Project to reduce the Construction Cost.
- 3.7 If County chooses to proceed under clause 3.6(4), above, Consultant, without additional compensation, shall modify the documents that Consultant is responsible for preparing under the Basic Services portion of this Agreement, as necessary to comply with the fixed limit.
- 3.8 Consultant shall estimate the total Project budget, including reimbursables, contingencies, permit fees, and agency fees. The budget may not include: (1) hazardous material testing and removal, if any is required; or (2) any costs for furniture, fixtures and equipment, unless otherwise provided in this Agreement. As part of the Basic Services, Consultant shall report to the County any suspected occurrence of hazardous materials in the areas of proposed remodeling or other construction work. Hazardous materials abatement work will be provided by County under separate contract.

**SECTION 4
COMPENSATION AND PAYMENT SCHEDULE**

- 4.1 In consideration of Consultant's performance of the Basic Services, Consultant will receive the Basic Services compensation described in Exhibit 1. County will pay the Basic Services compensation in accordance with the payment schedule specified in Exhibit 1.
- 4.2 For the performance of services not specifically described in the Basic Services (the "Additional Services"), Consultant will receive the Additional Services compensation described in Exhibit 1.
- 4.3 The County Project Manager will have authority to classify Consultant's services as "Basic or "Additional" services under this Agreement. The Project Manager may make this classification in consultation with the County Sheriff. In the event Consultant disagrees with the classification designated by the County Project Manager (and, if applicable, the County Sheriff), and those individuals are unable to resolve the disagreement directly, Consultant may refer the dispute to the Purchasing Agent, who will follow the procedures described in Paragraph 11.9.

**SECTION 5
PERIOD OF SERVICE**

- 5.1 Consultant shall perform the professional services described herein, whether "Basic" or "Additional" services, in accordance with the Project Schedule, attached to this Agreement as Exhibit 3. Consultant shall obtain County approval for any proposed modification to the Project Schedule.
- 5.2 This Agreement will become effective on the Effective Date, as defined on the signature page of this Agreement, 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 in this Agreement (the "Project Completion Date"), unless sooner terminated as provided for in this Agreement.
- 5.3 If the performance by Consultant or County of either Party's obligations under this Agreement 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 to this Agreement, then that Party will be excused from such performance for a period of time that is reasonably necessary after such occurrence to remedy the effects of the occurrence. Upon the discovery of such an event, the Party whose performance is affected under this section shall notify the other Party, and the County Project Manager will call a special meeting to propose a program for resolution of the problem, and if necessary, to establish an estimated period of time of suspension or extension of the Project Completion Date. If Consultant makes a written request for an extension of time, the County Project Manager may grant the extension if the request is properly documented and justified by the circumstances.

SECTION 6 COORDINATION WITH COUNTY

- 6.1 The Travis County Purchasing Agent (the "Purchasing Agent") acts as County's overall contract administrator. The Purchasing Agent may designate representatives to transmit and receive information. Consultant shall not commence work until the County Project Manager has thoroughly briefed Consultant on the scope of the Project. Consultant shall not commence work on the Project until receipt of a written notice to proceed issued by the Purchasing Agent upon the recommendation of the County Sheriff (the "Notice to Proceed"). Consultant shall not commence work on any subsequent 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 Sheriff. The County Sheriff will copy the Purchasing Agent on all Notices to Proceed issued for subsequent Project phases.
- 6.2 At the beginning of each Project phase, and before written authorization to proceed with that phase is issued, Consultant shall submit to the County Project Manager the Project Schedule, as updated and adjusted as required for each phase. In addition, Consultant shall make monthly progress reports with comparisons to the Project Schedule.
- 6.3 In addition to Consultant's obligations described in the Scope of Services pertaining to meetings, at intervals not to exceed thirty (30) days, Consultant shall arrange for and attend progress meetings with County representatives and, as applicable, representatives of any other governmental authority having jurisdiction over the Project, to explain and receive feedback on the work-in-progress.
- 6.4 Consultant shall 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. Consultant shall familiarize himself, and comply, with established application, review, and approval processes as necessary to ensure that reasonable compliance will cause no delay to the Project Schedule.
- 6.5 For the duration of the Agreement term, Consultant shall be responsible for advising County whether in Consultant's judgment it is feasible to proceed with the Project given any constraints affecting the Project.
- 6.6 Consultant shall cooperate and coordinate with County's staff and other consultants and contractors as reasonable and necessary in performance of this Agreement and as required by the County Sheriff, the County Project Manager, and the Purchasing Agent.

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 Consultant shall submit the Work Product for each phase of the Project on or before the dates specified in the Project Schedule. Upon receipt of the Work Product, County will check the submission 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, County will notify Consultant and County's Technical Review Process, as defined in this Section, will begin. If the submission is incomplete, County will notify Consultant, who shall perform any professional services that are required to complete the Work Product for that phase. Consultant shall then resubmit the Work Product to County.
- 7.4 County's "Technical Review Process" means County's review of the Complete Work Product for substantial compliance with the technical specifications and requirements included in the Basic Services. If necessary, County will return the Complete Work Product to Consultant, who shall perform any professional services required for such compliance and resubmit the Complete Work Product to 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 Project Manager's opinion, substantial compliance with the technical specifications and requirements has been achieved.
- 7.6 After Acceptance, Consultant shall perform any required modifications, corrections, redesigns, and additional work as requested by County and any other governmental entities having jurisdiction over the Project and as necessary to receive final approval by the County Project Manager. "Approval" means formal written recognition by County that the Work Product for that phase is Complete and that compliance with the technical specifications and requirements has been fully achieved.
- 7.7 The County Project Manager will have authority to classify Consultant's services as "Complete", "Accepted", or "Approved" under this Agreement. The Project Manager may make this classification in consultation with the County Sheriff. In the event Consultant disagrees with the classification designated by the County Project Manager (and, if applicable, the County Sheriff), and those individuals are unable to resolve the disagreement directly, Consultant may refer the dispute to the Purchasing Agent, who will follow the procedures described in Paragraph 11.9.

SECTION 8 REVISION TO WORK PRODUCT

- 8.1 After Approval by County of the Work Product for each Project phase, Consultant shall, without additional compensation, perform any professional services required as a result of Consultant's development of the Work Product that County has 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, Consultant shall do so without additional compensation. However, after Approval by County, any revisions, additions, or other modifications made at County's request for the convenience of County that require Consultant to perform extra services and incur additional expenses will entitle Consultant to additional compensation for such extra services and expenses. This compensation will be paid as Additional Services in accordance with

Exhibits 1 and 2. Consultant must obtain County's written authorization for Additional Services 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 specified in Exhibits 1 and 2. Reimbursable Expenses includes actual expenditures made by 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 Consultant. Postage, delivery expenses, and mileage for the Work Product(s) are also allowable as Reimbursable Expenses;
- 9.1.2 Expense of review and permitting fees as required by governmental authorities having jurisdiction over the Project.
- 9.2 Unless this Agreement has been amended or modified as provided in this Agreement, the payments made for each of the above-listed categories of Reimbursable Expenses may not exceed the amount shown in Exhibit 1.
- 9.3 County will pay Reimbursable Expenses monthly upon presentation of Consultant's statement of services rendered or expenses incurred. Consultant shall submit receipts for all reimbursable expenses with each invoice. County does not reimburse for sales taxes paid by Consultant. Consultant may obtain a Tax Exempt Certificate from the Travis County Purchasing Office.

SECTION 10 SUSPENSION AND TERMINATION OF AGREEMENT

- 10.1 SUSPENSION. 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" will be the date on which Consultant receives the Notice of Suspension, and the Suspension Period will begin on this date. Performance may be reinstated and this Agreement resumed in full force and effect within sixty (60) days of Consultant's receipt of written notice of reinstatement from County. Upon the Effective Date of Suspension, Consultant shall follow the procedures described below:
- 10.1.1 Upon receipt of a Notice of Suspension, Consultant shall, unless the Notice otherwise directs, immediately begin to phase out and discontinue all services in connection with the performance of this Agreement and shall prepare a statement detailing the services performed under this Agreement prior to the Effective Date of Suspension. Consultant shall prepare 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, for possible delivery to County upon County's request.

10.1.2 During the Suspension Period, Consultant may submit the above-referenced statement to County for payment of the approved services actually performed under this Agreement, less previous payments.

10.2 TERMINATION FOR CONVENIENCE. County reserves the right to terminate this Agreement for reasons other than default by 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 Consultant a written notice (a "Notice of Termination for Convenience"), which will take effect on the tenth day following receipt by Consultant ("Termination for Convenience"). In the event of Termination for Convenience, County and its officials, agents and representatives will not be liable for loss of any profits.

10.2.1 Upon receipt of a Notice of Termination for Convenience and prior to the effective date of termination, Consultant shall, unless the Notice of Termination for Convenience otherwise directs, immediately begin to phase out and discontinue all services in connection with the performance of this Agreement and shall proceed to promptly cancel all existing orders and contracts insofar as such orders and contracts are chargeable to this Agreement. Within thirty (30) days after receipt of a Notice of Termination for Convenience, Consultant shall submit a statement showing in detail the services performed under this Agreement prior to the effective date of termination.

10.2.2 Consultant shall deliver to County 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 as a precondition to any final payment due under this Agreement.

10.2.3 Upon satisfaction of the above conditions, County will pay Consultant for approved services actually performed under this Agreement prior to termination, less previous payments.

10.2.4 Consultant's failure to submit the required statement described in paragraph 10.2.1 and to comply with the above stated conditions will constitute a waiver by Consultant of any and all rights or claims to collect the fee to which Consultant may rightfully be entitled for services performed under this Agreement.

10.3 TERMINATION FOR DEFAULT. 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 shall take effect on the tenth day following receipt by the defaulting Party. In the event of Termination for Default, 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 Consultant exercises its right to terminate for default by County, within thirty (30) days after receipt by County of Consultant's Notice of Termination for Default, Consultant shall submit a statement detailing the services performed under this Agreement prior to the effective date of termination.

- 10.3.2 Consultant shall deliver to County 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 as a precondition to any final payment due under this Agreement.
- 10.3.3 Upon satisfaction of the above conditions, County will pay Consultant for approved services actually performed under this Agreement prior to termination, less previous payments.
- 10.3.4 Consultant's failure to submit the required statement described in paragraph 10.3.1 and to comply with the above stated conditions will constitute a waiver by Consultant of any and all rights or claims to collect the fee to which Consultant may rightfully be entitled for services performed under this Agreement.

Termination by County:

- 10.3.5 Upon receipt by Consultant of a Notice of Termination for Default and prior to the effective date of termination, Consultant shall, 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 shall proceed to promptly cancel all existing orders and contracts insofar as such orders and contracts are chargeable to this Agreement. Within thirty (30) days after receipt of a Notice of Termination for Default, Consultant shall submit a statement showing in detail the services performed under this Agreement prior to the effective date of termination.
 - 10.3.6 Consultant shall deliver to County 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 as a precondition to any final payment due under this Agreement.
 - 10.3.7 Upon satisfaction of the above conditions, County will pay Consultant for approved services actually performed under this Agreement prior to termination, less previous payments.
 - 10.3.8 Consultant's failure to submit the required statement described in paragraph 10.3.5 and to comply with the above stated conditions will constitute a waiver by Consultant of any and all rights or claims to collect the fee to which Consultant may rightfully be entitled for services performed under this Agreement.
- 10.4 All references to time in this Agreement will be measured in calendar days unless otherwise specified.

SECTION 11
CONSULTANT'S RESPONSIBILITY AND LIABILITY

- 11.1 Consultant covenants to undertake no task for 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, Consultant shall inform County of such event within five (5) working days.
- 11.2 Consultant shall be responsible for conformance with applicable federal and state laws, County permitting requirements, and city ordinances currently in effect.
- 11.3 Acceptance and Approval of the Work Product by County will not release 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 County will be an assumption of responsibility or liability by County for any defect, error, or omission in the designs, working drawings, specifications, or other documents prepared by Consultant.
- 11.4 Notwithstanding anything in this Agreement to the contrary, Consultant shall perform all services and responsibilities required of Consultant under this Agreement using at least that standard of care that a reasonably prudent Consultant in Travis County, Texas, would use in similar circumstances. Consultant shall perform the duties set forth in this Agreement in a professional manner and nothing in this Agreement will be construed to relieve Consultant of this duty.
- 11.5 Upon County's request, Consultant shall immediately remove from association with the Project any employee of Consultant who, in the opinion of County, is incompetent or whose conduct becomes detrimental to the work or coordination with County.
- 11.6 Consultant shall place his Texas Professional Consultant's seal of endorsement on all documents and engineering data furnished to County, as required by law.
- 11.7 Consultant is an independent contractor under this Agreement. Neither Consultant nor any officer, agent, servant, or employee of Consultant will be classified as an employee or servant of County.
- 11.8 **INDEMNIFICATION.** CONSULTANT AGREES TO AND SHALL 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 CONSULTANT OR ANY OF CONSULTANT'S 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 person, firm, corporation or other entity makes or brings any claim, or other

action, against Consultant that relates to Consultant's performance under this Agreement, including proceedings before an administrative agency, Consultant shall give written notice to County of the following information:

- (i) the existence of the claim, or other action, within ten (10) working days after being notified of it;
- (ii) 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;
- (iii) the alleged basis of the claim, action or proceeding;
- (iv) the court or administrative tribunal, if any, where the claim, action or proceeding was instituted; and
- (v) the name or names of any person against whom this claim is being made.

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

11.9 CONTRACT ADMINISTRATION; UNRESOLVED DISPUTES. The Purchasing Agent acts as the County representative in the administration of this Agreement. In case of an unresolved 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 Agreement. If Consultant does not agree with any document, notice, or correspondence issued by the Purchasing Agent, or other authorized County person, relating to the unresolved dispute, Consultant must submit a written notice to the Purchasing Agent, or other authorized County person, within ten (10) calendar days after receipt of the document, notice, or correspondence, outlining the exact point of disagreement in detail. Consultant may finally appeal the decision of the Purchasing Agent, in writing, to the Travis County Commissioners Court, whose decision shall be final and binding.

SECTION 12 OWNERSHIP OF DOCUMENTS

- 12.1 Consultant shall furnish County with Work Product as requested, whether or not it is complete at the end of the Project, or upon suspension or termination of this Agreement, as provided in this Agreement. Consultant may retain copies of the Work Product for Consultant's 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 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 County. Upon completion of the Project, Consultant shall deliver all such documents to County in an organized fashion. Consultant may retain a copy.
- 12.3 Any reuse by Consultant of any such documents described in paragraphs 12.1 and 12.2

without the specific and prior written consent of County will be at Consultant's sole risk and without liability or legal exposure to County.

- 12.4 Consultant will not be responsible for any use or any modifications to the documents described in paragraphs 12.1 and 12.2 made by any other entity, unless Consultant has given his specific written consent.

SECTION 13 MAINTENANCE OF AND RIGHT OF ACCESS TO RECORDS

- 13.1 Consultant agrees to maintain appropriate accounting records of costs, expenses, and payrolls of employees working on the Project, together with documentation of evaluations and study results for a period of five years after final payment for completed services and all other pending matters concerning this Agreement have been closed.
- 13.2 Consultant further agrees that County and its duly authorized representatives will have access to any and all books, documents, papers and records of Consultant that are directly pertinent to the services performed under this Agreement for the purposes of making audits, examinations, excerpts, and transcriptions.

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 a court of competent jurisdiction rules any portion or portions of this Agreement invalid, illegal, or unenforceable in any respect, the remainder of it shall remain valid and binding.
- 14.3 EQUAL OPPORTUNITY IN EMPLOYMENT. Consultant agrees, during the performance of the services under this Agreement, to comply with the equal opportunity in employment provisions cited in Exhibit 4.
- 14.4 CERTIFICATION OF CONSULTANT. Consultant certifies that neither Consultant nor any members of 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 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 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.

Consultant agrees that County may furnish this certification to any local, state or federal governmental agencies in connection with this Agreement and with those portions of the Project involving participation of agency grant funds. Consultant agrees that this certification is subject to all applicable state and federal, criminal and civil laws.

14.5 NOTICE. Any notice required or permitted to be given under this Agreement by one Party to the other must be in writing. The notice will 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. The notice will be given and deemed to have been given 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 County for all purposes under this Agreement, unless such notice is specifically directed otherwise, is:

COUNTY: Cyd V. Grimes, C.P.M., CPPO (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):

Sheriff Greg Hamilton
Travis County Sheriff's Office
P.O. Box 1748
Austin, Texas 78767

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

Encotech Engineering Consultants
8500 Bluffstone Cove, Ste. B-103
Austin, Texas 78759

14.6 INSURANCE. Consultant agrees during the performance of the services under this Agreement to comply with the insurance requirements specified in Exhibit 5.

14.7 FORFEITURE OF AGREEMENT. Consultant shall forfeit all benefits of this Agreement and County will retain all performance by Consultant and recover all consideration, or the value of all consideration, paid to Consultant pursuant to this Agreement if:

(i) 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) 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.

14.7.1 "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;

but does not include:

- (c) 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;
- (d) 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
- (e) 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 this Agreement.

14.7.2 "Key Contracting Person" means any person or business listed in listed in Attachment 1 to Exhibit 6.

- 14.8 PURCHASE ORDER. Consultant and its contractors, subcontractors and vendors shall provide goods and services using the purchase order method. The designated representative of the Travis County Purchasing Office will assign a purchase order number. Consultant and its contractors, subcontractors and vendors shall reference the Agreement number and the purchase order number on all invoices to the [Travis County Transportation and Natural Resources Department *or* Sheriff's Office]. The terms and conditions contained elsewhere in this Agreement will prevail over different or contrary terms in any purchase order. All invoices submitted by Consultant and its contractors, subcontractors, and vendors must reference the purchase order number on the invoice. County will not pay invoices that are in excess of the amount authorized by the purchase order.
- 14.9 PAYMENTS. County will make payment by check or warrant 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, as indicated on Purchase Orders.

Travis County Sheriff's Office
P.O. Box 1748
Austin, Texas 78767

In order to be considered "correct and complete," an invoice must include at least the following information:

- 14.9.1 name, address, and telephone number of Consultant and similar information in the event payment is to be made to a different address;
- 14.9.2 County Agreement, Purchase Order, or Delivery Order number;
- 14.9.3 identification of items or services as outlined in the Agreement;
- 14.9.4 quantity or quantities, applicable unit prices, total prices, and total amount, and
- 14.9.5 any additional payment information that may be called for by this Agreement.

Consultant shall also submit a statement with each invoice showing the percentage completion of the work to date, as well as any additional written information requested by County to document the progress of the work.

14.10 DISBURSEMENTS TO PERSONS WITH OUTSTANDING DEBTS PROHIBITED. 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 Consultant to the State, County or a salary fund, a warrant may not be drawn on a County fund in favor of Consultant, or an agent or assignee of Consultant until:

14.10.1 the County Treasurer notifies Consultant in writing that the debt is outstanding;
and

14.10.2 the debt is paid.

14.10.3 "Debt" includes delinquent taxes, fines, fees, and indebtedness arising from written agreements with County.

14.10.4 County may apply any funds County owes Consultant to the outstanding balance of debt for which notice is made under section 14.10 above, if the notice includes a statement that the amount owed by County to Consultant may be applied to reduce the outstanding debt.

14.11 INTEREST ON OVERDUE PAYMENTS. Chapter 2251 of the Texas Government Code will govern accrual and payment of interest on overdue payments.

14.12 PROPERTY TAXES. Notwithstanding anything to the contrary in this Agreement, if Consultant is delinquent in the payment of property taxes at the time of providing the services rendered under this Agreement, Consultant assigns any payments to be made for services rendered hereunder to the Travis County Tax Assessor-Collector for the payment of the delinquent taxes.

- 14.13 TAXPAYER IDENTIFICATION. Consultant shall provide 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 will be binding on and inure to the benefit of County and Consultant and their respective successors, executors, administrators, and assigns. Neither County nor Consultant may assign, sublet, or transfer its interest in or obligations under this Agreement without the written consent of the other party. IT IS EXPRESSLY ACKNOWLEDGED AND AGREED THAT NO OFFICIAL, EMPLOYEE, AGENT, OR REPRESENTATIVE OF COUNTY HAS ANY AUTHORITY, EITHER EXPRESS OR IMPLIED, TO ASSIGN THIS AGREEMENT EXCEPT PURSUANT TO SUCH EXPRESS AUTHORITY AS MAY BE GRANTED BY THE COMMISSIONERS COURT.
- 14.15 HISTORICALLY UNDERUTILIZED BUSINESSES (HUB) PROGRAM REPORTING REQUIREMENTS.

14.15.1 HUB Program Requirements.

14.15.1.1 In consideration of award of this Agreement to Consultant, Consultant agrees to maintain a subconsultant relationship with any HUB Subconsultants identified on the HISTORICALLY UNDERUTILIZED BUSINESS (HUB) DECLARATION Form provided with Consultant's Qualifications Statement and attached to this Agreement as Exhibit 7. Consultant shall 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 Agreement Sum. For purposes of this Agreement, all references to "HUB" mean "certified HUB." To be considered as a "certified HUB," the subconsultant 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 subconsultant 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.

14.15.1.2 Consultant may go beyond the good faith efforts listed above when soliciting HUB subconsultants.

14.15.2 Subcontractor/Subconsultant Tracking Software System.

14.15.2.1 The Travis County Purchasing Office has implemented an electronic subcontracting/subconsulting reporting system (the "Subcontractor Tracking Software System" or the "System") to assist the Travis County Purchasing Office in monitoring, tracking and reporting payments to Subcontractors/subconsultants. County understands and believes, based on discussions with representatives of the System vendor and review of documentation accompanying the System, that: (i) the System provides a paperless environment in which transactions are electronically stored and routed; "Payment" and "Payment Verification" alerts are provided by e-mail and fax; (ii) the System will facilitate electronic Subcontractor/subconsultant diversity management, which in turn will improve auditing while cutting costs and shortening the audit cycle from months to hours; (iii) the System will eliminate standard forms and streamline the current manual process of tracking payments to all first-tier Subcontractors/subconsultants by performing all such tracking procedures electronically; and (iv) the System will serve as a tool to improve efficiency, accountability, data accuracy, transparency, and overall communication.

14.15.2.2 Consultant shall designate, and shall require all Subcontractors/subconsultants to designate, a liaison responsible for handling all Subcontractor Tracking Software System reporting. On a monthly basis, Consultant shall record and submit electronically payments made to all Subcontractors/subconsultants for work completed through the end of the previous pay period; such electronic recording and submission must be completed no later than the 15th day after such payments are made. Consultant shall contractually require all Subcontractors/subconsultants to verify payments by entering such payment data in the System no later than 10 days following the day on which Consultant enters the Subcontractor/subconsultant payment information as required in this Agreement. Consultant shall attempt to resolve any payment discrepancies or disputes in good faith. Consultant shall not receive credit towards the HUB, M/WBE and DBE participation goals until reported payments have been verified by entering the payment data into the System as described in this Agreement or by providing to County payment documentation satisfactory to County.

14.15.2.3 Consultant shall report payment information pertaining to each Subcontractor/subconsultant that includes, but is not limited to, business name, certification status, work assignment, original subcontract sum, payment number, percentage and dollars paid during the reporting period. A "Comment" field is available for entering additional information and comments and includes the ability to attach documents.

14.15.2.4 Failure by Consultant to furnish the information required of it described in this paragraph 14.15.2 may result in cancellation of the contract award and Agreement

termination in accordance with the procedures set forth in this Agreement. Additionally, if County determines that Consultant is in default of these mandatory reporting requirements, County may consider such conduct against Consultant in the evaluation of future contracts between Consultant and County.

14.15.2.5 Consultant shall register, and shall contractually require all Subcontractors/subconsultants to register, with a username and password. Training on how to use the System will be provided by Travis County Purchasing Office HUB staff.

14.15.2.6 County understands and believes that the Subcontractor Tracking Software System will assist County in ensuring compliance with the County's HUB Program, and that the System will allow County staff to closely monitor Consultant and all Subcontractors/subconsultants performing work on the Project. Travis County Purchasing Office HUB staff will conduct periodic post-award compliance reviews to verify that Subcontractors/subconsultants listed by Consultant performed the work and received payment.

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

14.15.2.8 Other information tracked by the System includes increases or decreases in Subcontractor/subconsultant work assignments, percentage of HUB goal achieved, and substitutions. When substituting a Subcontractor/subconsultant, Consultant is highly encouraged to utilize HUBs, M/WBEs and DBEs. Consultant shall notify County of any substitutions or changes to Subcontractors/subconsultants in accordance with the procedures described in the System. Such notice shall be sent electronically to the Purchasing Agent or HUB Program Coordinator. County may request Consultant to provide evidence that it made a good faith effort to substitute another HUB, M/WBE or DBE Subcontractor/subconsultant but was unable to do so. Approval turnaround time will be within 24 – 48 hours. If Consultant has difficulty in locating HUB, M/WBE or DBE Subcontractors/subconsultants, it should contact the Travis County Purchasing Office HUB staff at (512) 854-4561 or (512) 854-4852.

14.15.2.9 County understands and believes that other notifications automatically generated by the Subcontractor Tracking Software System include the following: User Registration/Password, Contract Award Notifications, Audit Reminders, Unresponsive HUB Subcontractors, Discrepancy Notifications, HUB Subcontractor Change Requests, Payment Verifications, Vendor Information Verification Notices, Not Meeting the Goals Notification and Contract Closeout. Some notifications listed may include response deadlines.

14.16 FUNDING OUT. Despite anything to the contrary in this Agreement, if, during budget planning and adoption, the Commissioners Court fails to provide funding for this Agreement for the following fiscal year of Travis County, County may terminate this Agreement after giving Consultant thirty (30) days written notice that this Agreement is terminated due to the failure to fund it.

- 14.17 NON-WAIVER OF DEFAULT. No payment, act, or omission by County will constitute or be construed as a waiver of any breach or default of Consultant that then exists or that may subsequently exist. All rights of County under this Agreement are specifically reserved and any payment, act or omission will not impair or prejudice any remedy or title to 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 in this Agreement, nor will any action taken in the exercise of any right or remedy be deemed a waiver of any other rights or remedies.
- 14.18 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 shall 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.
- 14.19 OFFICIALS NOT TO BENEFIT. If a member of the Commissioners Court belongs to a cooperative association, 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.
- 14.20 CONSULTANT CERTIFICATIONS:
- 14.20.1 Consultant certifies that 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.
- 14.20.2 Consultant further represents and warrants that: (i) all applicable copyrights, patents and licenses that may exist on materials used in this Agreement have been adhered to; and (ii) County will not be liable for any infringement of those rights and any rights granted to County will apply for the duration of this Agreement. Consultant shall indemnify County and its officers, agents and employees from all claims, losses, damages, causes of action and liability of every kind, including expenses of litigation, 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 CIVIL RIGHTS/ADA COMPLIANCE. Consultant shall 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 Consultant were an entity bound to comply with these laws. Consultant shall not discriminate against any

employee or applicant for employment based on race, religion, color, sex, national origin, age or handicapped condition.

- 14.22 GRATUITIES. County may terminate this Agreement if it is found that gratuities of any kind, including entertainment or gifts, were offered or given by Consultant, or any agent or representative of 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 County pursuant to this provision, County will be entitled, in addition to any other rights and remedies, to recover from Consultant at least three times the cost incurred by Consultant in providing the gratuities.
- 14.23 MONITORING. County reserves the right to perform periodic on-site monitoring of Consultant's compliance with the terms of this Agreement and of the adequacy and timeliness of Consultant's performance under this Agreement. After each monitoring visit, County will provide Consultant with a written report of the monitor's findings. If the report notes deficiencies in Consultant's performance under the terms of this Agreement, it will include requirements and deadlines for the correction of those deficiencies by Consultant. Consultant shall take action specified in the monitoring report prior to the deadlines specified.
- 14.24 INCORPORATION OF EXHIBITS AND ATTACHMENTS. All of the exhibits, attachments, and appendices referred to in this Agreement are incorporated by reference as if set forth verbatim in this Agreement.
- 14.25 ENTIRE AGREEMENT. This Agreement represents the entire and integrated agreement between County and Consultant and supersedes all prior negotiations, representations, or agreements, either oral or written.
- 14.26 TEXAS PUBLIC INFORMATION ACT. Notwithstanding any provision in this Agreement to the contrary, disclosure of any information obtained by County or any of its officials, employees, agents or representatives in connection with this Agreement will be subject to the provisions of the Texas Public Information Act and all legal authorities relating to that Act, including but not limited to opinions, decisions and letter rulings issued by the Texas Attorney's General Office.
- 14.27 CERTIFICATION OF ELIGIBILITY. This provision applies if the Total Agreement Sum specified in Exhibit 1 exceeds \$25,000. By submitting a Qualifications Statement in response to RFQ#Q090290-JT, Consultant certifies that at the time of submission, Consultant was not on the federal government's list of suspended, ineligible, or debarred contractors. If Consultant has been placed on the list between the time of submission of its Qualifications Statement and contract award, Consultant shall notify the Purchasing Agent. If Consultant fails to do so, County may terminate this Agreement for default.
- 14.28 AMENDMENT. The Parties may amend this Agreement only by written instrument signed by both Parties. CONSULTANT EXPRESSLY ACKNOWLEDGES THAT NO OFFICER, AGENT, REPRESENTATIVE OR EMPLOYEE OF TRAVIS COUNTY HAS ANY AUTHORITY, EITHER EXPRESS OR IMPLIED, TO MODIFY OR AMEND THE TERMS OF THIS AGREEMENT UNLESS

THE COMMISSIONERS COURT HAS EXPRESSLY GRANTED THAT SPECIFIC AUTHORITY.

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

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

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

ENCOTECH ENGINEERING CONSULTANTS:

By:  _____

Printed Name: Ali R. Khataw, P.E. _____

Title: President _____

Authorized Representative

Date: October 15, 2013 _____

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, TEXAS:

By: _____

Samuel T. Biscoe
Travis County Judge

Date: _____

APPROVED AS TO PROCUREMENT COMPLIANCE:

By: _____

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

AVAILABILITY OF FUNDS CONFIRMED:

By: _____

Niccoli Riley
Travis County Auditor

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 will be the sum of **\$99,100.00**.

1.1.1 Unless the Parties have amended or modified this Agreement as provided in this Agreement, the payments for the phases described below will be:

- (i) Design Phase: includes: Pre-Design Phase, Programming Phase, Schematic Design Phase, Design Development Phase, and Construction Contract Documents Phase **\$ 82,800.00**
- (ii) Bidding Phase: includes Bidding Phase **\$ 2,500.00**
- (iii) Construction Phase: includes Construction Contract Administration Phase and Close-out Documents and Drawings **\$ 13,800.00**

TOTAL: \$ 99,100.00

SECTION 2 - FIXED FEE

2.1 Consultant and 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.

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 For the performance of the Additional Services, County will pay Consultant under a written amendment to this Agreement; provided, however, that the performance of any Additional Services must be authorized in advance in writing by the Purchasing Agent upon the recommendation of the County Project Manager.

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

3.4. County will compensate Consultant for the Additional Services unless the work comprising the Additional Services was made necessary by Consultant’s errors or omissions, in which case County will not compensate Consultant.

SECTION 4 – REIMBURSABLE EXPENSES

4.1 County will reimburse Consultant 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. Detailed requirements for Reimbursable Expenses are outlined in Section 9, Reimbursable Expenses.

REIMBURSABLES TOTAL NOT TO EXCEED: **\$250.00**

SECTION 5 –TOTAL AGREEMENT SUM

5.1 The Total Professional Services Agreement Sum, consisting of the Compensation for Basic Services fixed fee of **\$99,100.00**, plus the Not-to-Exceed Reimbursable Expenses Total specified in paragraph 4.1, above, of **\$250.00**, will not exceed **\$99,350.00**.

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 thirty (30) days of receipt of a correct and complete invoice, as defined in paragraph 14.10, by the Sheriff's Office.

EXHIBIT 2
HOURLY RATES

ADDITIONAL SERVICES SCHEDULE OF RATES (HOURLY):

Principal.....	\$188.00
Project Engineer III/Project Manager III.....	\$159.00
Project Engineer II/Project Manager II.....	\$142.00
Project Engineer I	\$135.00
Project Manager I.....	\$125.00
Graduate Engineer II.....	\$101.00
Graduate Engineer I.....	\$95.00
CAD Technician II	\$75.00
Administrative	\$57.00

EXHIBIT 3
PROJECT SCHEDULE

- A. Consultant shall 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 Project Manager and Consultant will 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. The Project Schedule must also allow sufficient time for the COUNTY's Technical Review Process.
- A.1 Consultant shall 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 specified in the Project Schedule;
 2. County makes a written request for a revision in the Work Product that is inconsistent with written approval or instructions previously given by County and due to causes beyond the reasonable control of Consultant;
 3. a force majeure event has occurred; and
 4. Consultant has not performed in accordance with the latest Project Schedule.
- A.3 If Consultant falls behind the Project Schedule by two or more weeks, then Consultant shall present the County Project Manager with a recovery plan that sets forth the remedial actions to be taken by Consultant. At its sole option, the COUNTY may withhold all or part of any payment due to 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.
- C. Consultant shall complete all design work described in this Agreement, and shall submit its Work Product for all phases as described in the Scope of Services, except for Bid Phase Services, within **50 calendar days** from the date of receipt by Consultant of County's written Notice to Proceed.

Calculation of the **50** days specified in paragraph C, above, does not include any time period during which 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 of Services	Precedent Activity or Milestone	Duration
Design Development Documents	Notice-to-Proceed	10
50% Construction Documents	COUNTY DD review comments	20
100% Construction Documents, including Final CD's for Issuance	COUNTY 50% CD review comments	20
SUBTOTAL		50

Bidding Assistance	Release for Bids	As Req'd.
Duration for preparation of Addendum documents for Bidding	Review comments from City and/or Bidders	3

Construction Contract Administration	Construction Notice-to-Proceed	As Req'd.
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EXHIBIT 4
EQUAL OPPORTUNITY IN EMPLOYMENT

- A. Consultant shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. 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 must 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. Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.
- B. Consultant shall, in all solicitations or advertisements for employees placed by or on behalf of Consultant, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
- C. 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 Consultant's obligations under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- D. 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. 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 Consultant's non-compliance with the non-discrimination clauses of this Agreement or with any of the said rules, regulations, or orders, this Agreement may be canceled, terminated, or suspended in whole or in part and 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. 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. 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 Consultant becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by County or federal agency, Consultant may request County and United States to enter into such litigation to protect the interests of the United States.

EXHIBIT 5
INSURANCE REQUIREMENTS

During the life of this Agreement, Consultant agrees to provide and maintain the following insurance:

- A. Worker's Compensation in accordance with statutory requirements.
- B. Commercial General Liability Insurance with a combined minimum Bodily Injury and Property Damage limits of \$400,000 per occurrence and \$1,000,000 in the aggregate, including coverage on the same for independent subcontractor(s). TRAVIS COUNTY MUST BE NAMED AS AN ADDITIONAL INSURED UNDER THIS COVERAGE.
- C. Automobile Liability Insurance for all owned, non-owned, and hired vehicles with combined minimum limits for Bodily Injury and Property Damage limits of \$400,000 per occurrence and \$1,000,000 in the aggregate. Consultant shall require any subcontractor(s) to provide Automobile Liability Insurance in the same minimum amounts.
- D. Professional Liability Errors and Omissions Insurance in the amount of \$1,000,000.

Consultant shall not commence any field work under this Agreement until Consultant has obtained all required insurance and such insurance has been approved by County. CONSULTANT shall not allow any subcontractor(s) to commence work to be performed in connection with this Agreement until all required insurance has been obtained. Approval of the insurance by COUNTY shall not relieve or decrease the liability of Consultant under this Agreement.

The required insurance must be written by a company approved to do business in the State of Texas at the time the policy is issued. Consultant shall furnish County with a certification of coverage issued by the insurer. The insurance company will be subject to County's approval. Consultant must not cause any insurance to be canceled or permit any insurance to lapse. ALL INSURANCE CERTIFICATES MUST INCLUDE A CLAUSE TO THE EFFECT THAT THE POLICY WILL NOT BE CANCELED OR REDUCED, RESTRICTED OR LIMITED UNTIL TEN (10) DAYS AFTER COUNTY HAS RECEIVED WRITTEN NOTICE AS EVIDENCED BY RETURN RECEIPT OF REGISTERED OR CERTIFIED LETTER.

EXHIBIT 6

STATE OF TEXAS }
COUNTY OF TRAVIS }

ETHICS AFFIDAVIT

Date: October 15, 2013
Name of Affiant: Ali R. Khataw, P.E.
Title of Affiant: President
Business Name of CONSULTANT: Encotech Engineering Consultants, Inc.
County of CONSULTANT: Travis County

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.

Signature of Affiant

8500 Bluffstone Cove, Suite B103 - Austin, Texas 78759
Address

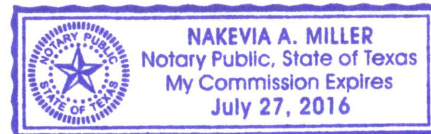
SUBSCRIBED AND SWORN TO before me by Ali Khataw on October 15, 2013

Notary Public, State of Texas

NaKevia A. Miller

Typed or printed name of notary

My commission expires: July 27, 2016



ATTACHMENT 1 to EXHIBIT 6
LIST OF KEY CONTRACTING PERSONS
August 15, 2013

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 Velasquez	
Executive Assistant	Josie Z. Zavala	
Executive Assistant	David Salazar*	
Commissioner, Precinct 1	Ron Davis	
Commissioner, Precinct 1 (Spouse)	Annie Davis	Seton Hospital
Executive Assistant	Deone Wilhite	
Executive Assistant	Felicitas Chavez	
Commissioner, Precinct 2	Bruce Todd*	
Commissioner, Precinct 2 (Spouse)	Elizabeth Christian	Consultant
Executive Assistant	Sara Krause*	
Executive Assistant	Joe Hon	
Executive Assistant	Peter Einhorn	
Commissioner, Precinct 3	Gerald Daugherty*	
Commissioner, Precinct 3 (Spouse)	CharylN Daugherty	Consultant
Executive Assistant	Bob Moore*	
Executive Assistant	Martin Zamzow*	
Executive Assistant	Barbara Smith*	
Commissioner, Precinct 4	Margaret Gomez	
Executive Assistant	Edith Moreida	
Executive Assistant	Norma Guerra	
County Treasurer.....	Dolores Ortega-Carter	
County Auditor	Nicki Riley*	
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 & Public Safety	Roger Jefferies	
Director, Facilities Management	Roger El Khoury, M.S., P.E.	
Interim Chief Information Officer.....	Tanya Acevedo	
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.....	Julie Joe	
Attorney, Land Use Division.....	Christopher Gilmore	
Director, Transactions Division	John Hille	
Attorney, Transactions Division.....	Daniel Bradford	
Attorney, Transactions Division.....	Elizabeth Winn	
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.....	Beth Devery	
Attorney, Health Services Division	Prema Gregerson	
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..... CW Bruner, CTP
 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..... Loren Breland, CPPB
 Purchasing Agent Assistant IV..... John E. Pena, CTPM
 Purchasing Agent Assistant IV..... Rosalinda Garcia
 Purchasing Agent Assistant IV..... Angel Gomez*
 Purchasing Agent Assistant III..... Shannon Pleasant, CTPM
 Purchasing Agent Assistant III..... David Walch
 Purchasing Agent Assistant III..... Michael Long, CPPB
 Purchasing Agent Assistant III..... Jesse Herrera, CTP, CTPM, CTCM
 Purchasing Agent Assistant III..... Sydney Ceder*
 Purchasing Agent Assistant III..... Ruena Victorino*
 Purchasing Agent Assistant III..... Rachel Carona*
 Purchasing Agent Assistant II..... Vacant
 Purchasing Agent Assistant II..... L. Wade Laursen
 Purchasing Agent Assistant II..... Sam Francis
 HUB Coordinator..... Sylvia Lopez
 HUB Specialist..... Betty Chapa
 HUB Specialist..... Jerome Guerrero
 Purchasing Business Analyst..... Scott Worthington
 Purchasing Business Analyst..... Jennifer Francis
 Sheriff's Office, Captain, Corrections..... Michael Gottner
 Sheriff's Office, Bldg. Maint. Div. Mgr..... Wallace Sefcik
 Sheriff's Office..... Thomas Perfetto

FORMER EMPLOYEES

<u>Position Held</u>	<u>Name of Individual Holding Office/Position</u>	<u>Date of Expiration</u>
Executive Assistant.....	Cheryl Aker.....	10/05/13
Purchasing Agent Assistant II.....	Jayne Rybak, CTP.....	12/14/13
Commissioner, Precinct 3.....	Karen Huber.....	01/01/14
Executive Assistant.....	Garry Brown.....	01/01/14
Executive Assistant.....	Julie Wheeler.....	01/01/14
Executive Assistant.....	Jacob Cottingham.....	01/01/14
Commissioner, Precinct 2.....	Sarah Eckhardt.....	05/31/14
Purchasing Agent Assistant III.....	Nancy Barchus, CPPB.....	06/28/14

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

EXHIBIT 7

HUB DECLARATION AND LIST OF CERTIFIED HUB SUBCONTRACTORS

The primary objective of the Travis County HUB Program is to ensure Historically Underutilized Businesses receive a fair and equal opportunity for participation in the County's procurement process. This fact holds true for Services (Professional & Non-professional), Commodities, and Construction contracts and any subcontracts thereto. The program strongly encourages Prime Contractors to provide subcontracting opportunities to Certified HUB Contractors/Vendors. It is the policy of the Travis County Purchasing Office to ensure a good faith effort is made to assist Certified HUB vendors and contractors in receiving contracts in accordance with the HUB Program policies and the Minority and Woman-Owned Business goals adopted by the Travis County Commissioners Court. Our goals for HUB contractor/vendor participation, as well as HUB subcontractor participation for this project are as follows:

Overall MBE Goal: 16.5%; Sub-goals: 1.7% African-American; 9.5% Hispanic; 0.6% Native American; 4.7%Asian American
Overall WBE Goal: 14.2%

To be considered as a "Certified HUB Contractor/Vendor" the contractor/vendor must have been certified by, and hold a current and valid certification, with any of the three agencies listed below. Please attach copy of certificate.

Vendor/Contractor: Encotech Engineering Consultants, Inc.

Certified as a HUB or an MBE/WBE/DBE source: Yes No HUB Status (Gender & Ethnicity): Male/Asian American

If yes, by whom: State of Texas Building and Procurement Commission City of Austin Texas Unified Certification Program

SUGGESTED DATABASE DIRECTORIES TO VIEW WHEN SOLICITING HUB SUBCONTRACTORS
State: www.tbpc.state.tx.us/cmbi; City: www.ci.austin.tx.us/purchasing; TUCP: www.tucp.org

LIST OF CERTIFIED HUB SUBCONTRACTORS
(DUPLICATE AS NECESSARY)

What percentage of the Bid or Proposal is to be subcontracted with Certified HUB sources: _____% (List HUB Subcontractor information below).

HUB Subcontractor Name: _____ HUB Status (Gender & Ethnicity): _____

Certifying Agency (Check all applicable): Texas Building and Procurement Commission City of Austin Texas Unified Certification Program

Address: _____ City: _____ State: _____ Zip: _____

Contact Person: _____ Title: _____ Phone No.: (____) _____

Subcontract Amount: \$u _____ Description of Work to be Performed: _____

HUB Subcontractor Name: _____ HUB Status (Gender & Ethnicity): _____

Certifying Agency (Check all applicable): Texas Building and Procurement Commission City of Austin Texas Unified Certification Program

Address: _____ City: _____ State: _____ Zip: _____

Contact Person: _____ Title: _____ Phone No.: (____) _____

Subcontract Amount: \$u _____ Description of Work to be Performed: _____

APPENDIX A

SCOPE OF SERVICES

1.0 THE PROJECT

- 1.1 The Project is to replace the existing domestic water heaters and install electronic mixing valves. The domestic water heating is served by 8 domestic water boilers. Six have 540,000 BTUH input and 250-gallon tank, plus 5 manual mixing valves. One serving the Commissary has 400,000 BTUH capacity and a 200-gallon tank. The eighth (serving the G wing) is unknown at this point but is likely the same as the main 6 units, at 540,000 BTUH. These are all 2 to 4 years old and at least 4 of the 8 are leaking at the tank.

The building heating is served by 4 large Hydronic HVAC boilers that run year-round, for heating and humidity control, with piping throughout the building to air handlers, located very near these domestic boilers.

Replace each of the 8 domestic boilers with two new ones (for redundancy), with new electronic mixing valves, Armstrong Brain.

2.0 ENGINEERING SCOPE OF SERVICES

- 2.1 The CONSULTANT'S "Basic Services" shall include all tasks and deliverables required to provide a complete, functional and usable design that meets the program requirements.
- A. Scope of general services will include, but not be limited to:
1. The scope of MEP design services extends to the boiler room and to the electrical room that is located about 50 feet from the boiler room.
 2. Participate with the Owner during design development.
 3. Provide a written narrative describing the Basis of Design of the MEP systems for the Project.
 4. Attend an initial kick-off meeting and up to three construction document review meetings in Austin at the completion of Design Development Documents, at 50% Construction Documents completion, and at 95% Construction Documents completion.
 5. Design of boiler system shall be based on Lochinvar boilers utilizing an N+1 redundant system.
- 2.2 Electrical design, required construction drawings, specifications and an estimate of cost shall be produced by the CONSULTANT under Basic Services. Deliverables may be used to secure permitting, solicit bids from contractors and provide direction for the construction of the Project. The CONSULTANT will be responsible for providing a complete and functional design so that the boiler system will be operational.
- A. Scope of electrical engineering services will include, but not be limited to:
1. Circuit design for boilers and associated recirculation pumps.
 2. Load analysis, distributions panels and wire sizing.
- 2.3 Mechanical and plumbing design, required construction drawings, specifications and an estimate of cost shall be produced by the CONSULTANT under Basic Services. Deliverables may be used to secure permitting, solicit bids from contractors and provide direction for the construction of the Project. The CONSULTANT will be responsible for providing a complete and functional design so that the boiler system will be operational.

- A. Scope of mechanical engineering services will include, but not be limited to:
 - 1. Design of combustion air supply and flue exhaust.
 - 2. Design of water piping and pumps.
 - 3. Sizing of boilers.
 - 4. Sizing of the electronic mixing valve.

- B. Scope of plumbing engineering services will include, but not be limited to:
 - 1. Gas piping load analysis, sizing, layout and riser diagrams.
 - 2. Condensate piping design.
 - 3. Fire protection services; CONSULTANT will provide performance specifications only.

3.0 CONSTRUCTION DOCUMENTS

- 3.1 The CONSULTANT shall prepare construction drawings and specifications completely describing the work and in coordination with the building design and the work of other design disciplines.
- 3.2 Drawings shall be prepared in AutoCAD 2008, or later version. Coordinate the drawings with the COUNTY's drawings as to title block format, sheet numbers and cover sheet information.
- 3.3 Provide complete specifications in Microsoft Word 2000 or more recent version.
- 3.4 Provide MEP Comcheck forms and energy conformance calculations, sealed and signed by the CONSULTANT, for County use and for regulatory agency review and approval.
- 3.5 "Construction Documents" shall mean all deliverables such as plans, specifications, calculations, reports, sketches and renderings prepared by the CONSULTANT. These shall become the property of the County. The CONSULTANT shall furnish the County with such documents as requested, whether or not they are complete at the end of the Project, or upon suspension or termination of this Agreement, as provided in the Professional Services Agreement. The CONSULTANT shall have the right to retain copies for record.
- 3.6 The CONSULTANT shall furnish to the COUNTY the following:
 - A. One set of 100% complete full-size construction drawings, photostatically plotted or copied on bond paper, bearing an original signed, dated professional engineering seal in required locations.
 - B. One unbound set of the final specifications.
 - C. One copy of the CAD/BIM files and specifications on compact disc.
 - D. One full-sized set each of the Design Development Documents, 50% Construction Documents, and 95% Construction Documents.
 - E. Calculations as described herein.
 - F. Regulatory documents as described herein.
 - G. Affix an original signed and dated seal to the following documents or as required by law.
 - 1. Drawing set Cover Sheet.
 - 2. Each sheet of Engineering Drawings.
 - 3. Project Manual Table of Contents sheet.
- 3.7 Provide cost estimate at basis of Design Narrative, 100 Design Development, 50% Construction Documents, and 95% Construction Documents Design Submissions.

4.0 CONSTRUCTION CONTRACT ADMINISTRATION

- 4.1 The CONSULTANT shall be responsible for Construction Contract Administration to the extent the CONSULTANT determines is necessary to verify that the Work is being constructed according to the intent of the Construction Documents. The CONSULTANT may perform up to eight site visits during construction, including final walk-thru, for observation of quality assurance and review of progress. Site visits will commence when sufficient MEP work has been installed to warrant attendance.
- 4.2 The CONSULTANT shall render interpretations necessary for the proper execution of the Work with reasonable promptness upon notification by the COUNTY. Present to the County the results of reviews within ten (10) calendar days for submittals and within ten (10) calendar days for claims, disputes, and other matters in question between the County and the Contractor relating to the execution or progress of the Work or the interpretation of the Construction Contract Documents. The CONSULTANT shall notify the County immediately if more time is required for reasonable cause. As negotiated between the COUNTY and the CONSULTANT, RFI's will be addressed by TCSO. The CONSULTANT may provide RFI responses if information has been omitted.
- 4.3 The CONSULTANT shall not have control or charge of, and shall not be responsible for construction means, methods, techniques, sequences or procedures nor safety precautions and programs in connection with the Construction Work nor acts or omissions of the Contractor or Subcontractors of any tier; or any other persons performing any of the Construction Work, nor failure of any of the aforementioned to carry out the Construction Work in accordance with the Construction Contract Documents.
- 4.4 The CONSULTANT shall at all times have access to the Work wherever it is in preparation or progress.
- 4.5 Interpretations and decisions of the CONSULTANT shall be consistent with the intent of, and reasonably inferable, from the Contract Documents and shall be in written and/or graphic form.
- 4.6 The CONSULTANT will attend a pre-bid conference at the Owner's facility for prospective bidders.
- 4.7 The CONSULTANT shall produce an MEP punch list of construction deficiencies at the end of the Project; the CONSULTANT will not be responsible for verification that punch list items have been completed.

5.0 QUALITY CONTROL

- 5.1 **Quality Levels and Quality Control Procedures:** The Construction Contract Documents (drawings and specifications) shall identify and describe all required quality levels and quality control procedures such as inspections, testing, submittals or other measures that the Contractor will be required to perform. The COUNTY and CONSULTANT acknowledge that, after the Construction Contract is signed, the Contractor cannot be required to perform any action that is not required by the Construction Contract Documents. Therefore, the Contractor must know what is expected and required in order to prepare a proper bid or cost proposal. The drawings & specifications must be precise in order to ensure that all necessary test and quality control actions will be performed to demonstrate that required quality levels have been met.
- 5.2 **Field Tests:** Testing requirements shall be set forth identifying the specific inspection, sampling and testing requirements to be performed by the Contractor or by an Independent Testing Firm retained by the COUNTY. Include items to be tested and the person(s) who will perform the test; the number of tests per lot size, cubic yard, ton, square foot, p.s.i., etc.; the testing method; the required tolerances; and the actions to be taken in the event of failure.

6.0 MEETINGS

- 6.1 The CONSULTANT shall attend meetings with the COUNTY as required for development of the Design and Construction Documents and as necessary during the Construction Contract Administration Phase. Attendance and participation at such meetings shall be part of the Basic Services. Any meetings not required by this Agreement shall be requested, provided, invoiced and compensated at the hourly rate for the appropriate CONSULTANT staff indicated, all in accordance with the Professional Services Agreement.

7.0 SCOPE OF WORK EXCLUSIONS

- 7.1 The items listed below are excluded from the CONSULTANT'S Scope of Services:

- A. Any testing associated with the existing and new mechanical, electrical and plumbing systems.
- B. Heat Load/ Energy analysis of TCCC Building 400.
- C. Increase in square footage of the building/boiler room.
- D. Tempered water pumping recirculation system for TCCC Building 400 and/or repairs to the existing pumping infrastructure.
- E. Electrical panel upgrade.
- F. Structural design services.
- G. Architectural design, including flashing details.
- H. As-built drawings.
- I. Value engineering services.
- J. Commissioning services.
- K. Environmental review, recommendations and/or design.
- L. Structural, recommendations design and/or structural loading capacity verifications.
- M. Fire sprinkler and fire alarm system design. The CONSULTANT will provide performance specifications only.
- N. Design of sand traps, septic systems, lift stations, UPS systems, generator systems, computer network systems, security and CCTV systems shall be considered as Additional Services. The CONSULTANT will coordinate power to such systems if load information is provided in advance by the COUNTY.
- O. CONSULTANT shall design all site utilities. The CONSULTANT's plumbing scope shall be limited to the building interior only.
- P. Testing and inspections (a qualified testing and inspection firm shall conduct all inspections under separate COUNTY contract).
- Q. Site visits and CA services shall be limited as indicated in this Scope of Services.
- R. Permitting.
- S. Other services or incurring of other expenses that become necessary for the completion of this Project but that are not reasonably anticipated at this time.

END OF APPENDIX A

APPENDIX B

ORGANIZATIONAL CHART

