

ASSIGNMENT AND CONSENT AGREEMENT

This Assignment and Consent Agreement (the "Agreement") is made and executed effective as hereinafter stated by and between Fort Bend County Drainage District, (the "Client") and LJA Engineering, Inc., a Texas corporation providing professional engineering services ("LJA").

RECITALS

A. Client and Carroll & Blackman, Inc. Consulting Engineers ("CBI") executed that certain agreement for professional engineering services, related to stormwater management program implementation services, titled "Agreement for Professional Engineering Services" on or about the 4th day of November, 2014 (the "Contract");

B. CBI merged with LJA becoming the successor interest by merger to CBI on or about January 7, 2016;

C. CBI wishes to assign the Contract to LJA pursuant to the merger;

D. Client consents to the assignment of the Contract.

E. Client, CBI and LJA acknowledge and agree that except for the assignment as herein provided, all other terms, conditions, obligations and payments due under the Contract are ratified and affirmed.

NOW, THEREFORE, for and in consideration of the mutual covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows;

ASSIGNMENT

CBI hereby assigns, transfers and conveys all of its rights, obligations, title, interest and liabilities in and to the Contract to LJA. LJA hereby accepts such assignment and assumes all of CBI's rights, obligations, title, and liabilities in and to the Contract, whether such rights, obligations, title, interest or liabilities arose before or after the date of this Agreement.

CONSENT TO ASSIGNMENT

Client hereby consents to the assignment of the Contract from CBI to LJA and agrees to look solely to LJA for the continued performance of the Contract from and after the date of the execution of this Agreement.

EXECUTED the ____ day of _____, 2016.

CARROLL & BLACKMAN, INC.

By: 

Title: VICE PRESIDENT

LJA ENGINEERING, INC.

By: 

Title: PRESIDENT

Client

FORT BEND COUNTY DRAINAGE DISTRICT

By: _____

Title: _____

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY CERTIFICATION OF FILING

Certificate Number:
2016-26822

Date Filed:
03/16/2016

Date Acknowledged:

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

LJA Engineering, Inc.
Houston, TX United States

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

Fort Bend County Drainage District

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the goods or services to be provided under the contract.

13471
This supercedes certificate 2016-26215: Assignment and Consent Agreement - Drainage

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary

5 Check only if there is NO Interested Party.

6 AFFIDAVIT

I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.



John Concienne
Signature of authorized agent of contracting business entity

AFFIX NOTARY STAMP ABOVE

Sworn to and subscribed before me, by the said John Concienne, this the 15th day of March 2016, to certify which, witness my hand and seal of office.

Mary Kathryn Gallo Signature of officer administering oath
Mary Kathryn Gallo Printed name of officer administering oath
Notary Public Title of officer administering oath

D2

STATE OF TEXAS
COUNTY OF FORT BEND

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KNOW ALL MEN BY THESE PRESENTS:

AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES

THIS Agreement is made and entered into by and between Fort Bend County Drainage District, a body corporate and politic under the laws of the State of Texas, acting herein by and through its Board of Directors, hereinafter referred to as "District," and CARROLL & BLACKMAN, INC., hereinafter referred to as "Contractor," authorized to conduct business in the State of Texas.

WITNESSETH:

WHEREAS, District desires that Contractor provide the Fort Bend County Drainage District Storm Water Management Program Permit Implementation Permit Years 2 through 5 of the 2nd Permit Term, hereinafter referred to as the "Project;" and

WHEREAS, Contractor represents that it is qualified and desires to perform such services; and

WHEREAS, District has determined that this Agreement is for personal or professional services and therefore exempt from competitive bidding under Chapter 262, LOCAL GOVERNMENT CODE; and

NOW, THEREFORE, District and Contractor, in consideration of the mutual covenants and agreements herein contained, do mutually agree as follows:

SECTION I
SCOPE OF AGREEMENT

- 1.01 Contractor shall provide the services described in Exhibit A, attached hereto and incorporated by reference as if set forth herein verbatim for all purposes.
- 1.02 Contractor agrees to complete the services called for in Section 1.01 of this Agreement on or before September 30, 2018.

SECTION II
CONTRACTOR'S COMPENSATION

- 2.01 For and in consideration of the services rendered by the Contractor, and subject to the limit of appropriation under Section VI, District shall pay to Contractor an amount not to exceed \$98,333.00, including reimbursable expenses.
- 2.02 Contractor shall submit invoices to District and District shall pay each invoice within thirty (30) days after the District Project Manager's written approval provided however, that the approval or payment of any invoice shall not be considered to be conclusive evidence of performance by Contractor to the point indicated by such invoice or of receipt or acceptance by District of the services covered by such invoice. Reimbursable expenses shall be reimbursed to Contractor at-cost upon submission of properly submitted expense records to District. Service charges are not applicable and not subject to reimbursement.
- 2.03 Contractor's fees shall be calculated at rates not to exceed the amounts included on Exhibit B, incorporated by reference herein as if set-forth verbatim.

11/10/14 original returned to Norma at Purchasing

SECTION III TERMINATION

- 3.01 District may terminate this Agreement at any time by providing ten (10) days written notice to the Contractor.
- 3.02 Upon receipt of such notice, Contractor shall discontinue all services in connection with the performance of this Agreement and shall proceed to cancel promptly all existing orders and contracts insofar as such orders or contracts are chargeable to this Agreement.
- 3.03 Within thirty (30) days after receipt of notice of termination, the Contractor shall submit a statement, showing in detail the services performed under this Agreement to the date of termination.
- 3.04 District shall then pay Contractor that proportion of the prescribed charges which the services actually performed under this Agreement bear to the total services called for under this Agreement, less such payments on account of charges as have been previously made.
- 3.05 Copies of all completed or partially completed designs, drawings, electronic data files and specifications prepared under this Agreement shall be delivered to District when and if this Agreement is terminated in the manner and for the purposes provided in this Agreement.

SECTION IV INSURANCE

Contractor shall, prior to performing billable services and for the duration of term of this Agreement, keep in full force and effect a policy of general liability insurance of not less than \$1,000,000.00 for each claim aggregate, which shall be approved by the Fort Bend County Risk Management Department prior to purchase. The policy shall contain a clause that the insurer will not cancel or change the insurance without first giving District ten (10) days prior written notice. The insurance shall be in a company acceptable to the Fort Bend County Risk Management Department and a copy of the policy or certification of insurance shall be delivered to the Fort Bend County Risk Management Department as soon as available.

SECTION V NOTICE

- 5.01 Any notice required to be given under the provisions of this Agreement shall be in writing and shall be duly served when it shall have been deposited, enclosed in a wrapper with the proper postage prepaid thereon, and duly registered or certified, return receipt requested, in a United States Post Office, addressed to the District or the Contractor at the addresses set forth below.
- 5.02 If mailed, any notice or communication shall be deemed to be received three days after the date of deposit in the United States Mail.
- 5.03 Unless otherwise provided in this Agreement, all notices shall be delivered to the following addresses:
 - A. If to the Contractor:

Carroll & Blackman Inc.
3120 Fannin Street
Beaumont, Texas 77701
Attn: Kim Carroll, P.E.

- B. If to District notice must be sent to both the County and District Project Managers:

Fort Bend County
301 Jackson
Richmond, Texas 77469

Mark Vogler, P.E.
Fort Bend County Drainage District
P.O. Box 1028
Rosenberg, Texas 77471

- 5.04 Either party may designate a different address by giving the other party ten (10) days written notice.

SECTION VI LIMIT OF APPROPRIATION

- 6.01 Prior to the execution of this Agreement, Contractor has been advised by District, and Contractor clearly understands and agrees, such understanding and agreement being of the absolute essence to this contract, that District shall have available the total maximum sum of \$98,333.00, specifically allocated to fully discharge any and all liabilities which may be incurred by District.
- 6.02 Contractor does further understand and agree, said understanding and agreement also being of the absolute essence of this contract, that the total maximum compensation that Contractor may become entitled to hereunder and the total maximum sum that District shall become liable to pay to Contractor hereunder shall not under any conditions, circumstances or interpretations thereof exceed the sum of \$98,333.00.

SECTION VII SUCCESSORS AND ASSIGNS

- 7.01 District and Contractor bind themselves and their successors, executors, administrators and assigns to the other party of this Agreement and to the successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement.
- 7.02 Neither District nor Contractor shall assign, sublet or transfer its or his interest in this Agreement without the prior written consent of the other.
- 7.03 Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of any public and/or governmental body that may be a party hereto.

SECTION VIII PUBLIC CONTACT

- 8.01 Contact with the any media outlet, citizens of Fort Bend County or governmental agencies shall be the sole responsibility of District.
- 8.02 Under no circumstances, whatsoever, shall Contractor release any material or information developed or received in the performance of its services hereunder without the express written permission of District, except where required to do so by law.

SECTION IX
COMPLIANCE AND STANDARDS

Contractor shall render the services hereunder in accordance with generally accepted standards of Contractors practicing in Fort Bend County, Texas applicable thereto and shall use that customary degree of care and skill commensurate with the profession similar to the Project to comply with all applicable state, federal, and local laws, ordinances, rules and regulations relating to the services to be rendered hereunder, and Contractor's performance.

SECTION X
OWNERSHIP OF DOCUMENTS

- 10.01 District shall be the absolute and unqualified owner of all drawings, preliminary layouts, record drawings, reports, sketches and other documents prepared pursuant to this Agreement by the Contractor and his Contractors (deliverables).
- 10.02 No reuse fees or royalty payments will be paid to the Contractor in connection with future reuse or adaptation of designs derived under this contract.
- 10.03 Copies of all complete or partially completed mylar reproducible, preliminary layouts, record drawings, reports, digital files, sketches and other documents prepared pursuant to this Agreement shall be delivered to District when and if this Agreement is terminated or upon completion of this Agreement, whichever occurs first, as provided in this Agreement.
- 10.04 Contractor is expressly prohibited from selling, licensing or otherwise marketing or donating such documents, or using such documents in the preparation of other work for any other client, or from duplicating the appearance of the Project depicted in the deliverables for any without the prior express written permission of District.
- 10.05 The documents referenced in this Section are not intended or presented by the Contractor to be suitable for reuse by District or others on extensions of this Project or on other unrelated projects.
- 10.06 Any adaptation or use by District of such documents on extension of this Project or other unrelated projects shall be at District's sole risk.

SECTION XI
INDEMNIFICATION

- 11.01 CONTRACTOR SHALL SAVE HARMLESS DISTRICT FROM AND AGAINST ALL CLAIMS, LIABILITY, AND EXPENSES, INCLUDING REASONABLE ATTORNEYS FEES, BUT ONLY TO THE EXTENT OR DEGREE ON A COMPARATIVE BASIS OF FAULT ARISING FROM ACTIVITIES OF THE CONTRACTOR, ITS AGENTS, CONTRACTORS OR EMPLOYEES, PERFORMED UNDER THIS AGREEMENT THAT RESULT FROM THE NEGLIGENT ACT, ERROR, OR OMISSION OF CONTRACTOR OR ANY OF CONTRACTOR'S AGENTS, SERVANTS OR EMPLOYEES.
- 11.02 CONTRACTOR SHALL ALSO SAVE HARMLESS DISTRICT FROM AND AGAINST ANY AND ALL EXPENSES, INCLUDING REASONABLE ATTORNEY'S FEES WHICH MIGHT BE INCURRED BY DISTRICT, IN LITIGATION OR OTHERWISE RESISTING SAID CLAIMS OR LIABILITIES THAT MIGHT BE IMPOSED ON DISTRICT AS THE RESULT OF SUCH NEGLIGENT ACTIVITIES BY THE CONTRACTOR, ITS AGENTS, CONTRACTORS OR EMPLOYEES.

SECTION XII
MODIFICATIONS

This instrument contains the entire Agreement between the parties relating to the rights herein granted and obligations herein assumed. Any oral or written representations or modifications concerning this instrument shall be of no force and effect excepting a subsequent written modification signed by both parties hereto.

SECTION XIII
MISCELLANEOUS

- 13.01 By entering into this Agreement, the parties do not intend to create any obligations, express or implied, other than those specifically set out in this Agreement.
- 13.02 Nothing in this Agreement shall create any rights or obligations in any party who is not a signatory to this Agreement.
- 13.03 Contractor agrees and understands that: by law, the Fort Bend County Attorney's Office may only advise or approve contracts or legal documents on behalf of its clients; the Fort Bend County Attorney's Office may not advise or approve a contract or other legal document on behalf of any other party not its client; the Fort Bend County Attorney's Office has reviewed this document solely from the legal perspective of its client; the approval of this document by the Fort Bend County Attorneys Office was offered solely to benefit its client; Contractor and other parties should not rely on this approval and should seek review and approval by their own respective legal counsel.
- 13.04 If there is a conflict between this Agreement and Exhibit A &B, the provisions of this Agreement shall prevail.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.

SECTION XIV
EXECUTION

This Agreement shall become effective upon execution by District.

FORT BEND COUNTY DRAINAGE DISTRICT:

Robert E. Hebert
Robert E. Hebert, County Judge

11-4-2014
Date

Attest: *Dianne Wilson*
Dianne Wilson, County Clerk



APPROVED:

By: *Mark Vogler*
Mark Vogler, P.E.
Fort Bend County Drainage District

10/27/14
Date

CONTRACTOR: CARROLL & BLACKMAN, INC.

Allen D. Sims
Signature

10/23/14
Date

Printed Name: ALLEN D. SIMS

Title: VICE PRESIDENT

AUDITOR'S CERTIFICATE

I hereby certify that funds are available in the amount of \$ 24,768.⁰⁰ ^{REL} to accomplish and pay the obligation of the District under this contract. ~~98,333.⁰⁰~~

Ed Sturdivant
Ed Sturdivant, Fort Bend County Auditor

- Exhibit A: Permit Implementation Permit Years 2 through 5 of the 2nd Permit Term
- Exhibit B: Contractor Fees

Exhibit A

Fort Bend County Stormwater Quality Coalition

Permit Implementation for Permit Years 2 through 5 of the 2nd Permit Term (FY 2015 – FY 2018)
Scope of Services

Task 1

- I. Conduct public education, involvement, and outreach campaign.
 - A. Develop and make available 2 types of educational materials on the impacts of illegal dumping and littering
 - B. Develop 1 type of educational material to be distributed to local schools
 - C. Maintain stormwater quality website
 - D. Conduct SWMP Committee Meetings
 - E. Maintain all associated permit compliance records/documentation

Task 2

- II. Conduct dry weather screening of 20% of all outfalls included in the outfall inventory map each year. Conduct field inspection procedures/documentation and training programs for illicit discharge detection.
 - A. Update outfall inventory map
 - B. Field work – Dry weather screening (20% of outfalls each year)
 - C. Provide assistance with enforcement of local illicit discharge regulations
 - D. Maintain all associated permit compliance records/documentation

Task 3

- III. Continue implementation of construction site runoff program
 - A. Conduct construction site inspections according to local regulations/assist with enforcement
 - B. Monitor permittee owned construction sites
 - C. Provide construction SWPPP review assistance/training
 - D. Maintain all associated permit compliance records/documentation

Task 4

- IV. Assist in the implementation of the post construction site runoff program
 - A. Conduct inspections of post construction control measures
 - B. Provide assistance with enforcement of local post-construction control regulations
 - C. Provide post-construction control plan review assistance
 - D. Maintain all associated permit compliance records/documentation
 - E. Training for plan review personnel

Task 5

V. Implement required BMPs for Good Housekeeping MCM

- A. Conduct self-audits for permittee owned facilities with SPCC plans
- B. Conduct self-audits for permittee owned facilities with SWPPPs
- C. Employee training program
- D. Develop required guidance documents/standard operating procedures
- E. Maintain all associated permit compliance records/documentation

Task 6

VI. Implement required BMPs related to TMDL/Impaired Water Bodies

- A. Provide stakeholder representation at local TMDL meetings
- B. Conduct determination of MS4 Pollutant Contributions
- C. Conduct analysis of progress made toward reaching established benchmarks

Task 7

VII. Additional Permit Compliance Activities

- A. Annual Report Development (Permit Term 2, Years 2 – 5)
- B. Permit negotiations/stakeholder meetings with the TCEQ
- C. SWMP Revisions

*All services included in this scope of work will be invoiced on an hourly basis not to exceed **\$98,333.00.**
Additional services if required will be completed under a separate authorization agreed upon by both parties.

Fort Bend County Stormwater Quality Coalition
Fort Bend County & Fort Bend County Drainage District
Estimated Budget

Permit Implementation Combined Activities

Key Implementation Activities by MCM	Permit Year 2 (FY 2015)	Permit Year 3 (FY 2016)	Permit Year 4 (FY 2017)	Permit Year 5 (FY 2018)
1.0 Public Education, Outreach, and Involvement				
Development of Public Education Materials				
Media Campaign				
Contractor Training and Outreach Program				
Reproduction Costs for Brochures, Flyers and other materials	\$10,046.00	\$8,467.00	\$8,890.00	\$8,890.00
Conduct Public Meetings				
SWMP Committee Meetings				
Record Maintenance/Data Entry				
2.0 Illicit Discharge Detection and Elimination				
Enforcement Assistance				
Outfall Screening	\$9,114.00	\$9,114.00	\$9,520.00	\$9,520.00
Maintain/Update Outfall Inventory Map				
Record Maintenance/Data Entry				
3.0 Construction Site Stormwater Runoff Control				
Enforcement Assistance				
Construction SWPPP Review	\$9,114.00	\$9,114.00	\$9,520.00	\$9,520.00
Monitor Permittee Owned Construction Projects				
Construction Site Inspections and Enforcement				
Record Maintenance/Data Entry				
4.0 Post-Construction Stormwater Management				
Enforcement Assistance				
Inspection of Post-Construction Controls	\$7,509.00	\$7,509.00	\$7,885.00	\$7,885.00
Training Programs for Plan Review Personnel				
Plan Review Assistance				
Record Maintenance/Data Entry				
5.0 Good Housekeeping for Municipal Operations				
Employee Training Programs				
Municipal Facility Inspections	\$4,737.00	\$6,316.00	\$3,316.00	\$3,316.00
Development of Guidance Documents				
Record Maintenance/Data Entry				
TMDL/Impaired Water Bodies				
TMDL/Stakeholder Representation	\$4,278.00	\$4,278.00	\$4,692.00	\$4,692.00
Focused BMP Implementation				
Additional Services				
SWMP Revisions				
Permit Negotiations/Stakeholder Meetings	\$4,738.00	\$4,738.00	\$4,974.00	\$4,974.00
Development/Submittal of Annual Reports				
Total Annual Cost for Combined Activities	\$49,536.00	\$49,536.00	\$48,797.00	\$48,797.00
Cost per participant (based on 2)	\$24,768.00	\$24,768.00	\$24,398.50	\$24,398.50

Exhibit B



Consulting Engineers & Surveyors

ENGINEERING FEES
2014

Principal-Registered Professional Engineer	\$188.00 per hour
Senior Project Engineer	\$172.00 per hour
Senior Electrical Engineer.....	\$185.00 per hour
Project Engineer and Registered Professional Land Surveyor.....	\$151.00 per hour
Computer Programming Specialist.....	\$170.00 per hour
GIS Specialist	\$130.00 per hour
Senior Environmental Scientist	\$170.00 per hour
Environmental Project Manager.....	\$139.00 per hour
Environmental Scientist.....	\$108.00 per hour
Environmental Technician.....	\$ 98.00 per hour
Engineer In Training (EIT)	
Level 1	\$112.00 per hour
Level 2	\$122.00 per hour
Graduate Engineer.....	\$107.00 per hour
Technician VI (Project Manager, Sr. Designer, Real Property Spec.)	\$137.00 per hour
Technician V (Designer, Survey Coordinator)	\$115.00 per hour
Technician IV (Autographics Operator, Office Survey Technician).....	\$ 98.00 per hour
Technician III (Jr. Autographics Operator, Field Survey Party Chief)	\$ 83.00 per hour
Technician II (Data Entry/Field Survey Technician).....	\$ 69.00 per hour
Resident Project Representative.....	\$ 101.00 per hour
Secretary/Typist.....	\$ 63.00 per hour

Reimbursable expenses such as outside reproduction services, courier service, photo processing, and sub-consultant services will be invoiced at cost plus 10%.

Rates are adjusted as necessary at the beginning of each calendar year to reflect increases in cost of operation, inflation, etc.

Invoices based on these rates or on any other contractual arrangements with Carroll & Blackman, Inc. are **NET 30 DAYS** unless specific arrangements/agreements are made. If payment is not received within 30 days, project work will proceed at our discretion. **Finance charges will be assessed on overdue accounts at the rate of 2% per month compounded daily.**