

STATE OF TEXAS           §  
  §  
COUNTY OF FORT BEND   §

**AGREEMENT FOR PROFESSIONAL CONSULTING SERVICES  
LOCAL GOVERNMENT PROJECT PROCEDURES AND INSPECTION RELATED SERVICES**

THIS AGREEMENT is made and entered into by and between Fort Bend County, (hereinafter "County"), a body corporate and politic under the laws of the State of Texas, and Property Acquisition Services, LLC (hereinafter "Contractor"), a company authorized to conduct business in the State of Texas.

WITNESSETH

WHEREAS, County desires that Contractor provide certain professional consulting services (hereinafter "Services"), including support to County to ensure that all Local Government Project Procedures (hereinafter "LGPP") required for the FM 1093/Westpark Toll Road Extension Project – SH 99 to FM 1463 (hereinafter "Project") are followed and other Construction Engineering Inspection services; pursuant to SOQ 14-025; and

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

NOW, THEREFORE, in consideration of the mutual covenants and conditions set forth below, the parties agree as follows:

**AGREEMENT**

**Section 1. Scope of Services**

1.1 Contractor shall render Services to County as defined in the Scope of Services attached hereto as Exhibit A and incorporated herein for all purposes.

1.2 In addition to the Services described in Exhibit A, Contractor shall be responsible for maintaining all LGPP required documentation and reporting any deficiencies on the part of other Project contracting parties to the County Engineer and County's Project Manager.

1.3 Contractor's performance of duties under Scope of Services shall not limit or interfere with Contractor's responsibility to provide Services and guidance to County in compliance with LGPP requirements.

## **Section 2. Personnel**

2.1 Contractor represents that it presently has, or is able to obtain, adequate qualified personnel in its employment for the timely performance of the Scope of Services required under this Agreement and that Contractor shall furnish and maintain, at its own expense, adequate and sufficient personnel, in the opinion of County, to perform the Scope of Services when and as required and without delays.

2.2 All employees of Contractor shall have such knowledge and experience as will enable them to perform the duties assigned to them. Any employee of Contractor who, in the opinion of County, is incompetent or by his conduct becomes detrimental to the Project shall, upon request of County, immediately be removed from association with the Project.

2.3 All employees of contractor working under this Agreement will report to the Construction Engineer designated by County. The Construction Engineer will assign the duties and direct the efforts of all personnel furnished by Contractor under this Agreement to best serve the Project, to achieve goals of the County and to comply with the requirements of the Texas Department of Transportation (hereinafter, "TxDOT") Advanced Funding Agreement for the Project and with the LGPP requirements applicable to the Project.

## **Section 3. Compensation and Payment**

3.1 Contractor's fees shall be calculated at the rates set forth in the attached Exhibit B, incorporated herein for all purposes. The Maximum Compensation for the performance of Services within the Scope of Services described in Exhibit A is one million one hundred thirty-two thousand ten dollars and 00/100 (\$1,132,010.00), as shown on Exhibit C incorporated herein for all purposes. In no case shall the amount paid by County under this Agreement exceed the Maximum Compensation without an amendment to this Agreement executed by the parties.

3.2 All performance of the Scope of Services by Contractor including any changes in the Scope of Services and revision of work satisfactorily performed will be performed only when approved in advance and authorized by County.

3.3 County will pay Contractor based on the following procedures: Upon completion of the tasks identified in the Scope of Services, Contractor shall submit to County staff person designated by the County Engineer, one (1) electronic (pdf) copy and two (2) original hard copies of invoices showing the amounts due for services performed in a form acceptable to County. County shall review such invoices and approve them within 30 calendar days with such modifications as are consistent with this Agreement and forward same to the Auditor for processing. County shall pay each such approved invoice within thirty (30) calendar days. County reserves the right to withhold payment pending verification of satisfactory work performed.

#### **Section 4. Limit of Appropriation**

4.1 Contractor clearly understands and agrees, such understanding and agreement being of the absolute essence of this Agreement, that County shall have available the total maximum sum of one million one hundred thirty-two thousand ten dollars and 00/100 (\$1,132,010.00) specifically allocated to fully discharge any and all liabilities County may incur.

4.2 Contractor does further understand and agree, said understanding and agreement also being of the absolute essence of this Agreement, that the total maximum compensation that Contractor may become entitled to and the total maximum sum that County may become liable to pay to Contractor shall not under any conditions, circumstances, or interpretations thereof exceed one million one hundred thirty-two thousand ten dollars and 00/100 (\$1,132,010.00).

#### **Section 5. Time of Performance**

Time for performance of the Scope of Services under this Agreement shall begin with receipt of the Notice to Proceed, shall be completed in a timely manner consistent with the Project schedule, and end no later than December 31, 2018. Contractor shall complete the tasks described in the Scope of Services, within this time or within such additional time as may be extended by amendment to this Agreement.

#### **Section 6. Modifications and Waivers**

6.1 The parties may not amend or waive this Agreement, except by a written agreement executed by both parties.

6.2 No failure or delay in exercising any right or remedy or requiring the satisfaction of any condition under this Agreement, and no course of dealing between the parties, operates as a waiver or estoppel of any right, remedy, or condition.

6.3 The rights and remedies of the parties set forth in this Agreement are not exclusive of, but are cumulative to, any rights or remedies now or subsequently existing at law, in equity, or by statute.

#### **Section 7. Termination**

7.1 Termination for Convenience – County may terminate this Agreement at any time upon thirty (30) days written notice.

7.2 Termination for Default

7.2.1 County may terminate the whole or any part of this Agreement for cause in the following circumstances:

7.2.1.1 If Contractor fails to perform services within the time specified in the Scope of Services or any extension thereof granted by the County in writing;

7.2.1.2 If Contractor materially breaches any of the covenants or terms and conditions set forth in this Agreement or fails to perform any of the other provisions of this Agreement or so fails to make progress as to endanger performance of this Agreement in accordance with its terms, and in any of these circumstances does not cure such breach or failure to County's reasonable satisfaction within a period of ten (10) calendar days after receipt of notice from County specifying such breach or failure.

7.2.2 If, after termination, it is determined for any reason whatsoever that Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the County in accordance with Section 7.1 above.

7.3 Upon termination of this Agreement, County shall compensate Contractor in accordance with Section 3, above, for those services which were provided under this Agreement prior to its termination and which have not been previously invoiced to County. Contractor's final invoice for said services will be presented to and paid by County in the same manner set forth in Section 3 above.

7.4 If County terminates this Agreement as provided in this Section, no fees of any type, other than fees due and payable at the Termination Date, shall thereafter be paid to Contractor.

#### **Section 8. Ownership and Reuse of Documents**

All documents, data, reports, research, graphic presentation materials, etc., developed by Contractor as a part of its work under this Agreement, shall become the property of County upon completion of this Agreement, or in the event of termination or cancellation thereof, at the time of payment under Section 3 for work performed. Contractor shall promptly furnish all such data and material to County on request.

#### **Section 9. Inspection of Books and Records**

Contractor will permit County, or any duly authorized agent of County, to inspect and examine the books and records of Contractor for the purpose of verifying the amount of work performed under the Scope of Services. County's right to inspect survives the termination of this Agreement for a period of four years.

## Section 10. Insurance

10.1 Prior to commencement of the Services, Contractor shall furnish County with properly executed certificates of insurance which shall evidence all insurance required and provide that such insurance shall not be canceled, except on 30 days' prior written notice to County. Contractor shall provide certified copies of insurance endorsements and/or policies if requested by County. Contractor shall maintain such insurance coverage from the time Services commence until Services are completed and provide replacement certificates, policies and/or endorsements for any such insurance expiring prior to completion of Services. Contractor shall obtain such insurance written on an Occurrence form from such companies having Best's rating of A/VII or better, licensed or approved to transact business in the State of Texas; and shall obtain such insurance of the following types and minimum limits:

10.1.1 Workers' Compensation insurance. Substitutes to genuine Workers' Compensation Insurance will not be allowed. Employers' Liability insurance with limits of not less than \$1,000,000 per injury by accident, \$1,000,000 per injury by disease, and \$1,000,000 per bodily injury by disease.

10.1.2 Commercial general liability insurance with a limit of not less than \$1,000,000 each occurrence and \$2,000,000 in the annual aggregate. Policy shall cover liability for bodily injury, personal injury, and property damage and products/completed operations arising out of the business operations of the policyholder.

10.1.3 Business Automobile Liability insurance with a combined Bodily Injury/Property Damage limit of not less than \$1,000,000 each accident. The policy shall cover liability arising from the operation of licensed vehicles by policyholder.

10.2 County and the members of Commissioners Court shall be named as additional insured to all required coverage except for Workers' Compensation and Business Automobile Liability. All Liability policies including Workers' Compensation written on behalf of Contractor, shall contain a waiver of subrogation in favor of County and members of Commissioners Court.

10.3 If required coverage is written on a claims-made basis, Contractor warrants that any retroactive date applicable to coverage under the policy precedes the effective date of the contract; and that continuous coverage will be maintained or an extended discovery period will be exercised for a period of 2 years beginning from the time that work under the Agreement is completed.

## Section 11. Indemnity

**CONTRACTOR SHALL INDEMNIFY AND DEFEND COUNTY AGAINST ALL LOSSES, LIABILITIES, CLAIMS, CAUSES OF ACTION, AND OTHER EXPENSES, INCLUDING REASONABLE ATTORNEYS FEES, ARISING FROM ACTIVITIES OF CONTRACTOR, ITS AGENTS, SERVANTS 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.**

## **Section 12. Confidential and Proprietary Information**

12.1 Contractor acknowledges that it and its employees or agents may, in the course of performing their responsibilities under this Agreement, be exposed to or acquire information that is confidential to County. Any and all information of any form obtained by Contractor or its employees or agents from County in the performance of this Agreement shall be deemed to be confidential information of County ("Confidential Information"). Any reports or other documents or items (including software) that result from the use of the Confidential Information by Contractor shall be treated with respect to confidentiality in the same manner as the Confidential Information. Confidential Information shall be deemed not to include information that (a) is or becomes (other than by disclosure by Contractor) publicly known or is contained in a publicly available document; (b) is rightfully in Contractor's possession without the obligation of nondisclosure prior to the time of its disclosure under this Agreement; or (c) is independently developed by employees or agents of Contractor who can be shown to have had no access to the Confidential Information.

12.2 Contractor agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Contractor uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever other than the provision of Services to County hereunder, and to advise each of its employees and agents of their obligations to keep Confidential Information confidential. Contractor shall use its best efforts to assist County in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limitation of the foregoing, Contractor shall advise County immediately in the event Contractor learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Agreement and Contractor will at its expense cooperate with County in seeking injunctive or other equitable relief in the name of County or Contractor against any such person. Contractor agrees that, except as directed by County, Contractor will not at any time during or after the term of this Agreement disclose, directly or indirectly, any Confidential Information to any person, and that upon termination of this Agreement or at County's request, Contractor will promptly turn over to County all documents, papers, and other matter in Contractor's possession which embody Confidential Information.

12.3 Contractor acknowledges that a breach of this Section, including disclosure of any Confidential Information, or disclosure of other information that, at law or in equity, ought to remain confidential, will give rise to irreparable injury to County that is inadequately compensable in damages. Accordingly, County may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. Contractor acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interest of County and are reasonable in scope and content.

12.4 Contractor in providing all services hereunder agrees to abide by the provisions of any applicable Federal or State Data Privacy Act.

12.5 Contractor expressly acknowledges that County is subject to the Texas Public Information Act, TEX. GOV'T CODE ANN. §§ 552.001 *et seq.*, as amended, and notwithstanding any provision in the Agreement to the contrary, County will make any information related to the Agreement, or otherwise, available to third parties in accordance with the Texas Public Information Act. Any proprietary or confidential information marked as such provided to County by Consultant shall not be disclosed to any third party, except as directed by the Texas Attorney General in response to a request for such under the Texas Public Information Act, which provides for notice to the owner of such marked information and the opportunity for the owner of such information to notify the Attorney General of the reasons why such information should not be disclosed.

### **Section 13. Independent Contractor**

13.1 In the performance of work or services hereunder, Contractor shall be deemed an independent contractor, and any of its agents, employees, officers, or volunteers performing work required hereunder shall be deemed solely as employees of contractor or, where permitted, of its subcontractors.

13.2 Contractor and its agents, employees, officers, or volunteers shall not, by performing work pursuant to this Agreement, be deemed to be employees, agents, or servants of County and shall not be entitled to any of the privileges or benefits of County employment.

### **Section 14. Notices**

14.1 Each party giving any notice or making any request, demand, or other communication (each, a "Notice") pursuant to this Agreement shall do so in writing and shall use one of the following methods of delivery, each of which, for purposes of this Agreement, is a writing: personal delivery, registered or certified mail (in each case, return receipt requested and postage prepaid), or nationally recognized overnight courier (with all fees prepaid).

14.2 Each party giving a Notice shall address the Notice to the receiving party at the address listed below or to another address designated by a party in a Notice pursuant to this Section:

County: Fort Bend County  
Attn: County Judge  
401 Jackson Street, 1<sup>st</sup> Floor  
Richmond, Texas 77469

With a copy to: Fort Bend County Engineering Department  
Attn: County Engineer  
301 Jackson Street  
Richmond, Texas 77469

Contractor: Property Acquisition Services, LLC  
Attn: Mark W. Heidaker, President  
19855 Southwest Freeway, Suite 200  
Sugar Land, Texas 77479

14.3 A Notice is effective only if the party giving or making the Notice has complied with subsections 14.1 and 14.2 and if the addressee has received the Notice. A Notice is deemed received as follows:

14.3.1 If the Notice is delivered in person, or sent by registered or certified mail or a nationally recognized overnight courier, upon receipt as indicated by the date on the signed receipt.

14.3.2 If the addressee rejects or otherwise refuses to accept the Notice, or if the Notice cannot be delivered because of a change in address for which no Notice was given, then upon the rejection, refusal, or inability to deliver.

#### **Section 15. Compliance with Laws**

Contractor shall comply with all federal, state, and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any matter affecting the performance of this Agreement, including, without limitation, Worker's Compensation laws, minimum and maximum salary and wage statutes and regulations, licensing laws and regulations. When required by County, Contractor shall furnish County with certification of compliance with said laws, statutes, ordinances, rules, regulations, orders, and decrees above specified.

#### **Section 16. Performance Warranty**

16.1 Contractor warrants to County that Contractor has the skill and knowledge ordinarily possessed by well-informed members of its trade or profession practicing in the greater Houston metropolitan area and Contractor will apply that skill and knowledge with care and diligence to ensure that the Services provided hereunder will be performed and delivered in accordance with the highest professional standards.

16.2 Contractor warrants to County that the Services will be free from material errors and will materially conform to all requirements and specifications contained in the attached Exhibit A.

**Section 17. Assignment**

17.1 Neither party may assign any of its rights under this Agreement, except with the prior written consent of the other party. That party shall not unreasonably withhold its consent. All assignments of rights are prohibited under this subsection, whether they are voluntarily or involuntarily, by merger, consolidation, dissolution, operation of law, or any other manner.

17.2 Neither party may delegate any performance under this Agreement.

17.3 Any purported assignment of rights or delegation of performance in violation of this Section is void.

**Section 18. Applicable Law**

The laws of the State of Texas govern all disputes arising out of or relating to this Agreement. The parties hereto acknowledge that venue is proper in Fort Bend County, Texas, for all legal actions or proceedings arising out of or relating to this Agreement and waive the right to sue or be sued elsewhere. Nothing in the Agreement shall be construed to waive the County's sovereign immunity.

**Section 19. Successors and Assigns**

County 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 the other party, in respect to all covenants of this Agreement.

**Section 20. Third Party Beneficiaries**

This Agreement does not confer any enforceable rights or remedies upon any person other than the parties.

**Section 21. Severability**

If any provision of this Agreement is determined to be invalid, illegal, or unenforceable, the remaining provisions remain in full force, if the essential terms and conditions of this Agreement for each party remain valid, binding, and enforceable.

**Section 22. Publicity**

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

**Section 23. Captions**

The section captions used in this Agreement are for convenience of reference only and do not affect the interpretation or construction of this Agreement.

**Section 24. Conflict**

In the event there is a conflict between this Agreement and the attached exhibits, this Agreement controls.

IN WITNESS WHEREOF, the parties hereto have signed or have caused their respective names to be signed to multiple counterparts to be effective on the \_\_\_\_ day of \_\_\_\_\_, 2016.

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK.]

FORT BEND COUNTY

PROPERTY ACQUISITION SERVICES, LLC

\_\_\_\_\_  
Robert E. Hebert, County Judge

  
\_\_\_\_\_  
Mark Heidaker, President

\_\_\_\_\_  
Date

1-5-16  
\_\_\_\_\_  
Date

ATTEST:

\_\_\_\_\_  
Laura Richard, County Clerk

APPROVED:

  
\_\_\_\_\_  
Richard W. Stolleis, P.E., County Engineer

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
Marcus D. Spencer, First Assistant County Attorney

#### AUDITOR'S CERTIFICATE

I hereby certify that funds are available in the amount of \$ \_\_\_\_\_ to accomplish and pay the obligation of Fort Bend County under this contract.

\_\_\_\_\_  
Robert Edward Sturdivant, County Auditor

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**Exhibit A**  
**Scope of Services**

**SERVICES TO BE PROVIDED BY SENIOR MANAGER**

The Senior Manager shall provide shall provide support to Fort Bend County and the Project Manager to ensure that all Local Government Project Procedures (LGPP) required for the FM 1093 / Westpark Extension Project are followed and all activities are in compliance in order to ensure 100% reimbursement of the \$40,000,000 of state funds scheduled for this Project. The Senior Manager is certified by TxDOT in LGPP requirements and will a) supervise the Contract Administrator to ensure all necessary controls are in place and followed, and b) act as liaison between the various parties, as needed, to ensure that the Project documentation meets all LGPP requirements.

**SERVICES TO BE PROVIDED BY LEAD INSPECTOR**

The Lead Inspector shall provide Construction Engineering Inspection (CEI) services, perform various types of services, and manage construction of specific operations as defined below:

- 1 Structure Inspection (bridge and bridge class culvert) – includes foundations, substructure and superstructure.
- 2 Concrete Paving Inspection – includes the subgrade up to the pavement.
- 3 Hot Mix Asphalt Paving Inspection – includes the subgrade up to the pavement
- 4 Storm Water Pollution Plan Inspection.
- 5 Landscape projects.

Additionally, the Lead Inspector will provide the following services at the direction of the Fort Bend County Project Manager (PM):

1. Change Orders (Lead Inspector will review estimate of cost of the change order provided by the State, provide justification required by TxDOT and assist PM with negotiations, if desired.)
2. Follow any current and new processes that are mandated by the State.
3. Track all shop drawing submittals, reviews and approvals.
4. Perform a liquidated damages assessment.
5. Review Traffic Control Plans (TCP).
6. Verify ramp and lane closures are in accordance with TxDOT guidelines.
7. Review work schedule, plan changes, construction issues, traffic changes, public information topics to include review the contractor's baseline schedule as well as monitoring the schedule as per specifications. All approval will be submitted to PM for final approval.

8. Work with PM to perform time impact analysis should contractor request more time.
9. Work with design consultant or Engineer of Record to develop plans to address design needs due to field changes. This work shall not address errors and omissions.
10. Make recommendations for the corrections of plan errors and omissions, substitutions, defects and deficiencies in the work of the contractor, subs, vendors, etc. If corrections cannot be resolved by Lead Inspector or personnel, confer with design consultants and/or Engineer of Record to receive further input. Work with TxDOT to secure concurrence.
11. Work with Engineer of Record to complete as-built plans.
12. Review, on a monthly, Contractor's Critical Path Methodology (CPM) Schedule.
13. Ensure inspection is conducted and documented including daily diaries, weekly Storm Water Pollution Prevention Plan (SW3P) inspections, testing (Lab and Field).
14. Utilize ATSER to perform recordkeeping tasks.
15. Oversee material testing in the field at the plant or stockpile source.
16. Work with PM to perform utility coordination and investigation
17. Review and respond to contractor's RFI's. If RFI requires input from design consultant or Engineer of Record, work with appropriate party to provide response to Contractor.

### **General Duties**

The Lead Inspector, working under the Fort Bend County Project Manager, will be responsible for all inspection teams to ensure the specific operations are conducted in accordance with the construction plans, specifications, special specifications and special provisions. The Lead Inspector will fully support the Project Manager in its dealings with the contractor, suppliers, subcontractors, engineers, other consultants, government entities, utilities, property owners, and the general public. The Lead Inspector and field inspectors are certified personnel and are knowledgeable of all materials testing procedures.

The Lead Inspector shall assist the PM and advise in matters of policy and procedure, and generally accepted industry practices. The Lead Inspector shall identify deficiencies in the work of the contractor, its subcontractors, its vendors and its consultants in the specific construction operations and inform the PM of these deficiencies.

The Lead Inspector or his designee will be on-site performing inspection duties at any time the work is being performed including nighttime hours and on weekends as required by the planned construction work. The scope of the project is based on the construction contract construction schedule, added days to the schedule as well as a closeout period. The Lead Inspector will work with Contract Administration and Inspection staff to ensure that documentation is in accordance with all Local Government Project Procedures (LGPP) and submitted to TxDOT.

The Lead Inspector shall attend and support the Project Manager at any meetings to

discuss specifications and action plans with regards to the pertinent bid items, i.e. Pre-Bridge Deck meeting and Pre-Paving meeting, etc.

The Lead Inspector shall be delegated certain levels of authority in decision making on the project at the discretion of the PM.

### **Specific Duties**

#### **Post Letting Activities Prior to Construction**

The Lead Inspector will support the PM to schedule and assist in conducting a preconstruction conference for the project, document the conference in accordance with County and TxDOT procedures.

#### **Inspection of Work in Progress and Project Records:**

##### **The Lead Inspector will support the PM to:**

1. Verify that the project is built according to the plans and specifications, and all contract documents.
2. Verify the accuracy of the work and determine pay quantities by making measurements as assigned by the State.
3. Verify all the specifications and special provision requirements are met for inspected items of work regarding materials, construction, measurement and payment.
4. Verify daily quantities for each item of work assigned, performed and tabulate into a monthly pay estimate to the contractor. The estimate shall be forwarded to PM for further processing.
5. Enter measurement and payment information daily into ATSER for the items inspected by the field inspection staff.
6. Verify all material sourcing information is entered into ATSER.
7. Ensure all sampling and testing of components and materials is conducted in accordance with the standard specifications, and all other standard and special specifications and special provision. Testing will meet the minimum sampling frequencies set out in the TxDOT Guide Schedule for Sampling and Testing for materials. The testing will include the following materials and all the components of the materials listed: Asphalt, Concrete, Soils and Aggregates. The estimated number of samples and tests will be based on quantities in the executed construction contract.
8. Ensure all material or testing deficiencies are addressed promptly.
9. Review, verify and inventory MOH requests prior to submission of the monthly estimate.
10. Maintain all records on the project per County and TxDOT procedures including Daily Work Reports (DWR), diaries, shop drawings and submittals, RFI drawings

- and sketches of measured items, sets of plans, record set plans, material on hand forms and general correspondence. Plot to include but not limited to concrete, asphalt and pipe to ensure accuracy of payment.
11. Verify proper drill shaft installations. Inspector should have knowledge in geological materials to ensure proper founding is achieved, proper underwater and slurry displacement concrete placement procedures and proper use of steel casing for dewatering and stability applications are implemented.
  12. Verify appropriate mill tests, materials approval and Buy America certifications are available as required.
  13. Work with Contract Administrator to ensure: DBE/SBE/HUB documentation is verified; Commercially Useful Function reviews and Labor Interviews are performed; Prompt Pay and Wage rate surveys are complete and correct; Bulletin Board is erected, contains all applicable posters and posters are filled out with correct information.
  14. Follow all current Storm Water Management guidelines and verify SW3P and Environmental Permits Issues and Commitments (EPIC) sheet requirements are followed.
  15. Verify appropriate permits are in place for all contractor Project Specific Locations (PSL's).
  16. Maintain the SW3P working drawings, which shall be located in the field office at all times.
  17. Maintain documentation in accordance with the Texas Pollutant Discharge Elimination System (TPDES) General Permit TXR150000.
  18. Perform SW3P inspections on schedule shown in the plans, record the results in ATSER, report deficiencies to the contractor and verify corrections were made per the requirements of the Construction General Permit (CGP).
  19. Verify that the contractor follows the guidelines of the CGP.
  20. Provide all environmental correspondence to TxDOT.
  21. If there are any change orders or added construction that will impact the Environmental document, the Lead Inspector shall coordinate with County and TxDOT to provide the necessary documentation.
  22. Verify the project is administered according to the environmental document and EPIC sheet.
  23. Maintain a separate SW3P working copy of plan set and verify it is updated accordingly to remain in compliance.
  24. Coordinate inspection of the pedestrian elements with Registered Accessibility Specialists (RAS) to ensure compliance with the Texas Department of Licensing and Regulation (TDLR) policies.

#### **Design Verification, Changes and Alterations**

The Lead Inspector will support the PM to:

1. Change Orders
  - 1.1 Review the Contractor's estimated cost of change order and, at the direction of the PM, aid in price negotiations of new pay items added by change order. Review the information submitted by the contractor to verify the prices are within the current Statewide or District bid averages. If the price exceeds the bid averages, review the breakdown to ensure the contractor is using the allowed mark-ups as specified in the Spec Book. Prices should be fair and reasonable based on the time, material, equipment and labor necessary to perform the work.
  - 1.2 Provide appropriate documentation including justification for the change order, revised drawings and plan sheets with appropriate design backup documentation, cost breakdowns, time impacts, and change order descriptions. The plan sheets shall be signed, sealed and dated by a Texas Registered Professional Engineer. Record all Change Order information in ATSER.
  - 1.3 Review Change Order with PM.
  - 1.4 Submit change orders to TxDOT for review and concurrence.
  - 1.5 Submit to PM for final processing and approval by Ft. Bend County.
2. Submittal, Tracking and Approval of the Shop Drawing
  - 2.1 Log, monitor, and coordinate the contractor's submittals of fabrication plans, erection plans, shop drawings, change orders, Material on Hand, time extensions, product and material submittals, and Requests for Information (RFI).
  - 2.2 Forward submittals and shop drawings to the appropriate party and verify return of documents.
  - 2.3 Address RFI's as directed by the PM.
  - 2.4 Make recommendations for resolution of any RFI's and draft any correspondence necessary for the resolution of the RFI.
  - 2.5 Coordinate RFI resolutions with appropriate party as directed by PM.
  - 2.6 Track all shop drawing submittals, reviews and approvals.

### **Project Supervision**

The Lead Inspector will support the PM to:

1. Traffic Control Inspection
  - 1.1 Review plan sheets for Traffic Control Plan (TCP) changes or modifications.
  - 1.2 Verify that all lane and ramp closures follow State guidelines and lane restrictions as found in the project plans.
  - 1.3 Ensure that all lane closure information is sent to the assigned TxDOT Public Information Office (PIO), Corridor Mobility Coordinator and others as directed.
  - 1.4 Ensure that if scheduled lane closures are cancelled, a District's PIO, the Corridor Mobility Coordinator and others, as directed, are notified immediately with updated

information.

- 1.5 Oversee project barricades and signs on a daily basis and coordinate corrections with the contractor as required.
  - 1.6 Perform inspections of barricades and report to contractor at a minimum of two inspections per month (one daytime inspection and one nighttime inspection).
  - 1.7 Document deficiencies or actions needed and submit to contractor for corrective actions. Lead Inspector shall document when the deficiencies or actions are addressed and escalate as required.
  - 1.8 Ensure the contractor makes repairs to critical items immediately and other deficiencies or actions shall be addressed as soon as possible per item 502 Barricades, Signs, and Traffic Handling and enforce non-payment of item, if needed.
  - 1.9 Ensure all items meet requirements of TMUTCD, TCP, standards and specifications and State Compliant Work Zone List which include at a minimum:
    - 1.9.1 proper devices are used
    - 1.9.2 devices are clean and free of damage
    - 1.9.3 devices are properly aligned and spaced
    - 1.9.4 devices have proper reflectivity
    - 1.9.5 pavement markings are performing properly
    - 1.9.6 proper flagging procedures are followed
    - 1.9.7 signs are properly mounted on and appropriate substrate and not leaning
    - 1.9.8 the overall set up is in compliance.
  - 1.10 Review contractor's recommendations for correctness/effectiveness in the use of safety contingencies provided in the construction contract.
2. Project Coordination
1. Conduct weekly coordination meetings on the project with Contractor, Subcontractors, TxDOT and other interested parties.
  2. Conduct pre-activity meetings for major operations or traffic control changes.
  3. Review the work schedule, plan changes, construction issues, submittal progress, traffic changes, public information topics, and all other relevant matters to include review and approve the contractor's baseline schedule to verify the contractor has followed the approved Traffic Control Plan and all work has been incorporated into the schedule.
  4. Monitor the progress of the contractor's approved schedule and the progress of the work with the goal of meeting the contract completion date, review and monitor the contractor's work schedule monthly and recommendation to the State regarding any changes or needed changes to the schedule, and notify the State if the schedule does not adequately reflect appropriate completion dates, reasonable resources, or errors in logic. If additional time is requested by the contractor, the Lead Inspector will review the contractor's request and verify the time impact analysis. If necessary,

and directed by the PM, the Lead Inspector will consult with the Engineer of Record to verify.

5. Analyze the contractor's monthly schedule as defined by plans and specifications and provide recommendations for modifications or acceptance and verify the CPM schedules follow all guidelines described in the specifications. Any revisions to the schedule will require approval by the State.

### **Documenting and Reporting**

Lead Inspector will support the PM to:

1. Prepare a DWR for each day of work from the begin work date until final acceptance. All inspectors shall prepare their own DWR each day they are on the project. Each DWR must have the weather recorded for that day, including temperature high and low, weather conditions, all visitors to the project, traffic conditions, lane closure hours, police officer names and hours worked, portable message sign hours, instruction given to the contractor, the contractor work hours, the contractor's equipment and utilization, and equal employment opportunity (EEO) issues, safety concerns, SW3P information, and accidents. When recording information pertaining to accidents, record only factual information as observed; not personal opinion. Also, include the subcontractors on the project, the number of hours on the project, and the work they are performing, and items for payment.
2. Maintain all relevant subcontractor forms, contract assurance checklist, agreements, and statements of compliance.
3. Fill out the DWR work items tab as a means to pay for items of work inspected. Input the station number, supporting calculations, quantity being paid, any comments or remarks necessary, and any other information to properly distinguish the item being paid. Reference plan sheets as reference markers.
4. Maintain hard copies of measurements and attachments that support the calculations and quantities listed in the DWR's.
5. Maintain a daily diary on the project in hard copy and in electronic format in ATSER.
6. Identify items that will overrun and under run during the course of the project.
7. Coordinate with TxDOT for State Audits to be performed. Track resolution of audit deficiencies.

### **Final Construction Documents**

Lead Inspector will support the PM to:

1. Provide a comprehensive punch list to the contractor when work nears completion.
2. Verify that all punch list work is complete before recommending acceptance to the State.
3. Provide the contractor punch list to the State.
4. Provide final complete construction records including as-built plans, final

quantities, complete test reports, final DBE/SBE/HUB reports, and project documentation (including all general correspondence that occurred during the project) within thirty (30) days of final acceptance of the project by the State. Final project documentation shall include the following: folder labeled by item number for items requiring additional back-up; copies of all of the change orders with back-up; Material Invoices back-up; Manifest tickets for all material paid by weight (Asphalt, Concrete, Lime, etc.); Material on Hand forms 1914 and 1915; Texas Department of Licensing and Regulation (TDLR) or Registered Accessibility Specialists (RAS) Inspections; and any other applicable records necessary to complete the review. The Lead Inspector working with the Contract Administrator will submit the correspondence folder with the final records including the as-built drawings when submitting the final documents.

### **Public Information and Coordination**

Lead Inspector will support the PM to:

1. Assist in public relations activities including the preparation of public information, attend public meetings for the purposes of providing information to the public, notification of County and Department personnel of lane closures, including press releases.
2. Initiate and conduct meetings which include, but are not limited to the following parties: contractor representatives, neighboring construction projects, public works agencies, utilities, federal officials, the State, and their interested parties. The goal of these meetings will be to maintain adequate cooperation and communication among all partners to this project.
3. Coordinate with the County and TxDOT District Public Information Office (PIO) to resolve any issues or complaints received by TxDOT.

### **SERVICES TO BE PROVIDED BY CONTRACT ADMINISTRATOR**

The Contract Administrator will provide support to the Fort Bend County Project Manager (PM), the Lead Inspector and the Construction Management team and will, as a primary responsibility, ensure the requirements outlined in the contract documents are performed accurately and completion and the responsibilities of all parties are properly satisfied. Primarily, the Contract Administrator will work with the PM, the Senior Manager and the Lead Inspector to:

1. Verify performance of the contract for the purpose of payment;
2. Identify material breach of contract by assessing the difference between contract performance and material non-performance;
3. Determine if corrective action is necessary; and
4. Implement corrective action, as necessary.

Working on behalf of Ft. Bend County, the local government sponsor, the Contract Administrator will ensure that the contractor and subcontractors abide by the requirements and clauses contained in the contract documents. The result of this effort is to guarantee Ft. Bend County receives 100% of the money committed to this project in the Financial Assistance Agreement executed December 19, 2011.

### **Pre-Construction Activities**

The Contract Administrator, working in conjunction with the PM, will:

#### **A. Letting and Award**

1. Verify the LG advertised the project for the required 21 days. Obtain copies of the newspaper ads, affidavits and any electronic advertisements to include in the project files.
2. Verify that all addendums have been approved by TxDOT prior to issuance. Obtain copies of the approval and addendums to include in the project files.
3. Obtain a copy of the Low Bid to include in the project files.
4. Obtain a copy of the Bid Tab (County's) to include in the project files.
5. Obtain a copy of the Bid Tab Analysis from Design Consultant to include in the project files.
6. Obtain a copy of the Recommendation for Award. Verify that that recommended documents are attached. Obtain a copy of TxDOT's concurrence. Include copies of all in the project files.
7. Obtain a copy of award notification to Contractor to include in the project files.
8. Obtain a copy of Performance and Payment Bonds, DBE Commitment, Insurance Information to include in the project files.
9. Obtain a copy of the Contract Execution submission to TxDOT to include in the project files. Verify that all required items are attached to the executed Contract per the LGPP Checklist (Item 8-4).
10. Obtain a copy of TxDOT's concurrence on contract execution to include in the project files.
11. Obtain a copy of Contract Execution to Contractor to include in the project files.

#### **B. Pre-Construction Meeting**

1. Obtain a copy of the Pre-Construction Notification to the Contactor to include in the project files.
2. Ensure that all appropriate parties are invited to the meeting including TxDOT & OFCCP, Utilities, Fire, EMS, Schools, etc.
3. Attend Pre-con Meeting to keep minutes of the meeting.
4. Collect and Review Prime Contractor's Documents:
  - a. Verify List of subcontractors department
  - b. Prepare subcontractors folders

C. Notice to Proceed

1. Obtain a copy of the Notice to Proceed (NTP) to be included in the project files
2. Obtain a copy of TxDOT's concurrence to the NTP to be included in the project files

**Administration of Work in Progress and Maintenance of Project Records**

**Daily:**

The Contract Administrator, working in conjunction with the PM and Construction Management team, will:

A. Obtain Approval of all Subcontractors

1. Obtain and review subcontractors documentation
  - a. Collect and review the required documentation for each subcontractor (subcontract agreement, insurance, EEO Policy, EEO Officer, Payroll Officer, Safety Policy, Flagger certification)
  - b. Verify subcontractors debarment
  - c. Verify EEO has Title VI language verbatim
  - d. Log subcontractor information in Access and ATSER
  - e. Review subcontract agreement for proper language, and inclusion of required special provisions, FHWA 1273, wage rates and Title VI information
  - f. Notify Contractor of any missing documents
  - g. Forward for approval
2. Generate Subcontractor Approval Log and Distribute to Project Staff

B. DBE Subcontractors Documentation

1. Review and approve the joint check usage, if requested
2. Conduct Commercial Useful Function Performed (CUF)
3. Collect back-up information for inclusion in project file

C. Subcontractor approval logs

1. Review to ensure that all certificates of insurance are current
2. Ensure that the most updated list is posted and distributed to all project inspectors

D. Certified Payroll Review

1. Ensure that all certified payrolls are received for each week
2. Verify workers hourly rate against the projects wage rate included in the proposal
3. Ensure that pay rates issues have been addressed, resolved and back-up information is the files
4. Verify Labor on Daily Reports
5. Coordinate with Contractor/Sub on the addition of job classification.
6. Submit request to USDOL for inclusion of Additional Job Classification

E. Submittal Processing

1. Collect, log and attach documents in ATSER
2. Distribute to reviewing parties
3. Log response into ATSER and attachment reviewed documents

4. Distribute to Contractor and project staff
  5. Ensure copies are in the files
- F. RFI Processing
1. Collect, log and attach documents in ATSER
  2. Distribute to reviewing parties
  3. Log response into ATSER and attachment reviewed documents
  4. Distribute to Contractor and project staff
  5. Include copy in project files
- G. 1257 Processing
1. Collect from Inspectors
  2. Pull folders for Lead Project Inspector
  3. Log in 1258, Scan and File
  4. Log into spreadsheet for Annual Reporting to TxDOT
- H. Delivery Tickets
1. Tally and Place in the appropriate file
- I. Lab Reports
1. Attach to ATSER daily report
  2. Verify Lab Tech Certification
  3. Log into Lap Report Summary
  4. Include copy in project files
- J. TxDOT Inspection Letters
1. Received initial request from Contractor,
  2. Draft inspection request to TxDOT for PM's Signature,
  3. Scan and file electronically.
- K. Correspondence
1. Print and distribute emails/correspondence to appropriate parties
  2. Include all documentation in project files

**Weekly:**

- A. Perform Subcontractor Log Review
- B. Print Daily Diaries and include in project files
- C. Verify Contractors on site and update Certified Payrolls log for week
- D. Verify receipt of last week's contractor/subcontractor's Certified Payrolls.
- E. Contact responsible party to request missing Certified Payrolls
- F. Verify Buy America compliance
- G. Support weekly Progress Meeting
  1. Work with PM/Lead Inspector to generate Meeting Agenda. Agenda to include any outstanding issues from previous meeting
  2. Distribute Meeting Notes and Action Items to all meeting attendees
- H. Print Submittal log and meet with PM/Lead Inspector/Engineer of Record to Review

- I. Print RFI log and meet with PM/Lead Inspector/Engineer of Record to Review
- J. Change Order
  - 1. Enter Approved Change Order info into ATSER

**Monthly:**

- A. Maintain and include supporting documentation for each page and checklist included in the LGP Workbook
- B. Perform Bulletin Board Checks
  - 1. Quarterly checks to ensure all required posters and EEO Policies are visible and legible
- C. Perform Labor Standards Reviews (LSR)
  - 1. Ensure Inspectors conduct LSR review monthly per requirements
  - 2. Log and track each LSR
  - 3. Ensure that a copy of the Certified Payroll for the appropriate period is attached to LSR
  - 4. Ensure all deficiencies are addressed and back-up information is attached.
- D. Pay Estimate:
  - 1. Once Lead Inspector-generated draft estimate is submitted to the Contractor, print draft and pull all 1257s folders on the estimate.
  - 2. Verify ATSER quantity and close out the 1258.
  - 3. Notify PM of any discrepancies.
  - 4. When Contractors Draft is received, verify quantities with ATSER. Log quantities and Material on Hand (MOH) into spreadsheet to verify calculations.
  - 5. Once finalized, generate Estimate Checklist and ATSER documents and forward to Lead Inspector/PM for Approval.
  - 6. Verify DBE work and prepare to receive Monthly DBE Report
  - 7. Include copies of all documentation in project files
  - 8. After payment is processed, verify all documents are received prior to releasing payment to Contractor.
  - 9. Notify Contractor of any missing documents
  - 10. After payment is released, compile and submit the monthly estimate package to TxDOT for their files
- E. Lab Invoices
  - 1. Review and approve
  - 2. Forward to PM for further processing
  - 3. Log all test to Testing Guide Spreadsheet
  - 4. Include updated Log in project files
- F. DBE Monthly Reports
  - 1. Verify payment on the Estimate
  - 2. Log and Forward to TxDOT

3. Include updated log in project files
- G. Prompt Payment Certification
  1. Log and forward to TxDOT
  2. Include updated log in project files
- H. Handle all Miscellaneous Items
  1. Notice of Non-payments
  2. Accident Reports
  3. EEO Compliance
    - a. Verify the Contractor has completed EEO Compliance Meetings every six months.
    - b. Request a copy of the agenda and meeting minutes needed for the project files.
  4. OJT Reports
  5. Buy American Compliance.
    - a. Request copies of completed Form 1818 from the Contractor for the project files
    - b. Include tags from the field
  6. D9 Testing Reports
    - a. Print and save testing reports in the appropriate pay item folder
    - b. Approve invoice and forward to PM for further processing
  7. Processing Miscellaneous Invoices
    - a. Review all invoices received at Field Office
    - b. Check project records to confirm services or delivery of material
    - c. Work with Lead Inspector to review and approve
    - d. Forward to PM for further processing
  8. Conduct Periodic Internal Audits of all Project Records
  9. Working with Lead Inspector, act as Co-Point of Contact for all State and Federal Audits
  10. Coordinate Annual Labor Reporting to TxDOT (Form 1391)
  11. Coordinate Annual Cost Reporting to TxDOT

### **Project Close-out**

The Contract Administrator, working in conjunction with the PM and Construction Management team, will:

- A. Complete following items and include in project files for use in County and TxDOT's final project review
  1. Local Government Best Practices and include supporting documents
  2. TxDOT Final Project Review Checklist with supporting documents
- B. Verify all items on LG Contract Admin Checklist and include supporting documents in the project files.
- C. Conduct a final audit on all Pay item folders
- D. Review Final DBE Report and Final Prompt Payment Certification from the Contractor.

**Exhibit B**  
**Billing Rates**

Senior Manager	\$237.50
Lead Inspector	\$140.00
Contract Administrator/LGPP Specialist	\$112.50

Fees are based on hourly rates and will be based on the time spent by the personnel who work on the matter in accordance with those rates set forth above. Billing rates for our personnel vary according to the experience of the individuals. In order to retain and attract the best available personnel in a competitive environment, salaries and billing rates are, from time to time, adjusted. If a rate change occurs during contract duration, PAS will request approval of the rate change from the County Engineer or his designated representative prior to next billing cycle.

**Exhibit C**  
**Fee Estimate**

