

STATE OF TEXAS                   §  
COUNTY OF FORT BEND         §

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**AMENDMENT NO. 3 TO AGREEMENT FOR  
PLANNING, ENGINEERING, ENVIRONMENTAL ANALYSIS AND DESIGN SOQ 14-027**

**THIS THIRD AMENDMENT**, 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 Lockwood, Andrews & Newnam, Inc., (hereinafter “Contractor”), a company authorized to conduct business in the State of Texas.

WHEREAS, the parties executed and accepted that certain Agreement for Planning, Engineering, Environmental Analysis and Design SOQ 14-027 on April 1, 2014, (hereinafter "Agreement"), and as amended on November 13, 2015, and on September 6, 2016, attached hereto as ATTACHMENT A and incorporated by reference herein for all purposes; and

WHEREAS, the following changes are incorporated as if a part of the original Agreement to the same extent as if fully set forth verbatim therein:

**NOW, THEREFORE,** the parties do mutually agree as follows:

1. Exhibit C of the Agreement will be replaced with the attached ATTACHMENT B "Exhibit C-Design Costs-Amendment #3".
2. All terms and conditions of the Agreement, including any addenda or amendments, not modified herein shall remain in full force and effect for the term of Agreement. If there is a conflict between this Second Amendment and the Agreement for Planning, Engineering, Environmental Analysis and Design SOQ 14-027, the provisions of this Second Amendment shall prevail with regard to the conflict.

Except as provided herein, all terms and conditions of the Agreement shall remain unchanged.

*{Execution Page Follows}*  
*{Remainder Left Intentionally Blank}*

IN WITNESS WHEREOF, the parties put their hands to this Amendment on the dates indicated below.

**FORT BEND COUNTY**

**LOCKWOOD, ANDREWS &  
NEWNAM, INC.**

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

\_\_\_\_\_  
Authorized Agent- Signature

\_\_\_\_\_  
Authorized Agent- Printed Name

ATTEST:

\_\_\_\_\_  
Title

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

\_\_\_\_\_  
Date

#### **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

**ATTACHMENT A**  
**AGREEMENT,**  
**AMENDMENT #1 and**  
**AMENDMENT #2**

STATE OF TEXAS                   §  
   §  
COUNTY OF FORT BEND       §

**AGREEMENT FOR PLANNING, ENGINEERING,  
ENVIRONMENTAL ANALYSIS, AND DESIGN  
SOQ 14-027**

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 Lockwood, Andrews & Newnam, Inc., (hereinafter "Contractor"), a company authorized to conduct business in the State of Texas.

WITNESSETH

WHEREAS, County desires that Contractor provide planning, engineering, environmental analysis, and design services related to the administration and operations facility for the Fort Bend County Public Transportation Department (hereinafter "Services") pursuant to SOQ 14-027; and

WHEREAS, County has determined that this Agreement is for personal or professional services and therefore exempt from competitive bidding under Chapter 262 of the Texas Local Government Code; 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).

1.2 Contractor shall use best efforts to perform all professional Services agreed hereunder in a manner satisfactory and acceptable to County, in keeping with the highest professional standard of care provided by Contractors in similar projects. Contractor shall use its best efforts to ensure that all Services provided hereunder shall be suitable for their intended use.

1.3 Contractor shall use best efforts and measures to implement its responsibilities under this Agreement to safeguard County against defects and deficiencies in the completed Services provided under this Agreement. However, Contractor will promptly inform County whenever defects and deficiencies in the completed service are observed, or when any observed actions or omissions are undertaken by Contractor which are not in the best interest of County.

1.4 All work provided under this agreement shall conform to and be in the format required for capital projects funded by federal and state funding agencies. Guidelines and requirements of the Federal Transit Administration, the Federal Highways Administration, the Environmental Protection Agency and the Texas Department of Transportation are applicable to these projects. Other federal and local funding sources may impose additional and/or differing requirements.

## **Section 2. Work Authorizations**

2.1 County will issue Work Authorizations using the form included as Exhibit B to authorize all work provided by Contractor under this Agreement. Contractor must sign and return a Work Authorization to County within seven (7) working days after receipt. Refusal of Contractor to accept a Work Authorization shall be grounds for termination of this Agreement by County.

2.2 Each Work Authorization shall specify the types of Services to be performed and shall include: (A) a period of performance with a beginning and ending date; (B) a full description of the work to be performed; (C) a work schedule with milestones; (D) a cost not to exceed amount; (E) the basis of payment (i.e. cost plus fixed fee, unit cost, lump sum, or specified rate; and (F) a Work Authorization budget calculated using amounts set forth in Exhibit C.

2.3 Contractor shall not include additional terms and conditions in the Work Authorization. In the event of any conflicting terms and conditions between the Work Authorization and this Agreement, the terms and conditions of this Agreement shall prevail and govern the work and costs incurred.

2.4 Contractor shall not provide any Services under this Agreement until authorized by County in a fully executed Work Authorization. Any Services provided by Contractor or any costs incurred by Contractor before issuance of a Work Authorization or after the expiration of a Work Authorization shall be ineligible for payment or reimbursement.

2.5 Work Authorizations are issued at the discretion of County. While it is County's intent to issue Work Authorizations hereunder, Contractor shall have no cause of action conditioned upon the lack or number of Work Authorizations issued.

2.6 Each work authorization shall be signed by all parties and shall become a part of this Agreement. No work authorizations will waive County or Contractor's responsibilities and

obligations established in this Agreement. Contractor shall promptly notify County of any event that will affect completion of the Work Authorization.

2.7 Before additional work may be performed or additional costs incurred, a change in a Work Authorization shall be enacted by a written Supplemental Work Authorization in the form identified and attached hereto as Exhibit B. All parties must execute a Supplemental Work Authorization within the period of performance specified in the Work Authorization. County shall not be responsible for actions by Contractor or any costs incurred by Contractor prior to the execution of the Work Authorization. Contractor shall allow adequate time for review and approval of the Supplemental Work Authorization by County prior to expiration of the Work Authorization. Under no circumstances shall a Work Authorization be allowed to extend beyond this Agreement's expiration date as detailed in Section 6, unless an appropriate contract extension has been approved by the County and set forth in writing, nor will the total amount of funds exceed the not-to-exceed amount set forth in Section 4 of this Agreement unless an appropriate contract amendment has been approved by the County and set forth in writing.

2.8 Upon satisfactory completion of the Work Authorization as determined by County, Contractor shall submit the deliverables as specified in the executed Work Authorization to County for review and acceptance.

### **Section 3. Personnel**

3.1 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.

3.2 Save and except in instances in which the employment and/or independent consultant relationship is terminated with Contractor, County will approve assignment and release of all key personnel with regards to this Agreement. Contractor shall submit written notification of all key personnel changes for County's approval prior to the implementation of such changes. For the purpose of this Agreement, key personnel are defined in Exhibit D.

3.3 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.

### **Section 4. Compensation and Payment**

4.1 Contractor's fees shall be calculated at the rates set forth in the attached Exhibit C. The Maximum Compensation for the performance of Services within the Scope of Services described in Exhibit A is nine hundred and thirty-seven thousand one hundred and ninety-six dollars and no/100 (\$937,196), including all reimbursable expenses. In no case shall the

amount paid by County under this Agreement exceed the Maximum Compensation without an approved change order. County will only compensate Contractor for fees specifically set forth in a Work Authorization.

4.2 County will pay Contractor based on the following procedures: On or before the 10<sup>th</sup> day of the month, Contractor shall submit to County two (2) original copies of invoices showing the amounts due for services performed in the previous month in a form acceptable to County. Invoices shall be accompanied by a progress report indicating the percent complete for milestones identified in the applicable Work Authorization. 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 5. Limit of Appropriation**

5.1 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 nine hundred and thirty-seven thousand one hundred and ninety-six dollars and no/100 (\$937,196), specifically allocated to fully discharge any and all liabilities County may incur.

5.2 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 nine hundred and thirty-seven thousand one hundred and ninety-six dollars and no/100 (\$937,196).

#### **Section 6. Time of Performance**

6.1 This Agreement shall become effective upon execution of the last party and shall terminate on or before seven (7) years thereafter.

6.2 Services described in a Work Authorization shall be completed in accordance with the schedules provided in the Work Authorization or within such additional time as may be extended in writing by County.

#### **Section 7. Modifications and Waivers**

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

7.2 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.

7.3 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 8. Termination**

### **8.1 Termination for Convenience**

8.1.1 Either party may terminate this Agreement at any time upon thirty (30) days written notice.

### **8.2 Termination for Default**

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

8.2.1.1 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;

8.2.1.2 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.

8.2.2 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 8.1 above.

8.3 Upon termination of this Agreement, County shall compensate Contractor in accordance with Section 4, 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 4 above.

8.4 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 9. Ownership and Reuse of Documents**

9.1 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 4 for work performed. Contractor shall promptly furnish all such data and material to County on request.

9.2 County shall also be the owner of all intellectual property rights of the Services rendered hereunder, including all rights of copyright therein. County and Contractor agree that the Services provided are a “work for hire” as the term is used in the federal Copyright Act.

## **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 Bests 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.

10.1.4 Professional Liability insurance with limits not less than \$1,000,000.

10.2 County and the members of Commissioners Court shall be named as additional insured to all required coverage except for Workers’ Compensation. 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**

**11.1 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.**

11.2 The provisions of this Section shall survive the expiration or termination of the Agreement.

#### **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 Public Transportation Department  
Attn: Transportation Director  
12550 Emily Ct., Suite 400  
Sugar Land, Texas 77478

With a copy to: Fort Bend County  
Attn: County Judge  
301 Jackson Street, Suite 719  
Richmond, Texas 77469

Contractor: Lockwood, Andrews & Newnam, Inc.  
2925 Briarpark Drive, Suite 400  
Houston, Texas 77042

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. No Government Obligation to Third Parties**

County and the Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to County, the Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract. The Contractor agrees to include this clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

## **Section 17. Program Fraud and False or Fraudulent Statement and Related Acts**

17.1 Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

17.2 The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.

17.3 Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

## **Section 18. Access to Records and Reports**

18.1 Contractor agrees to provide County, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor also agrees, pursuant to 49 C.F.R. 633.17 to provide the FTA Administrator or his authorized

representatives including any PMO Contractor access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

18.2 Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until County, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto.

## **Section 19. Federal Changes**

Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between County and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

## **Section 20. Civil Rights Requirements**

20.1 The following requirements apply to the Agreement:

20.1.1 Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

20.1.2 Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during

employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

20.1.3 Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

20.1.4 Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

20.2 Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

## **Section 21. Disadvantaged Business Enterprise**

21.1 This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, *Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs*. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. A separate contract goal has not been established for this procurement.

21.2 Contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted contract. Failure by the Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as County deems appropriate. Each subcontract the Contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).

21.3 The successful bidder/offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.

21.4 Contractor is required to pay its subcontractors performing work related to this Contract for satisfactory performance of that work no later than 30 days after the Contractor's receipt of payment for that work from County. In addition, the Contractor is required to return

any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this Contract is satisfactorily completed.

21.5 Contractor must promptly notify County whenever a DBE subcontractor performing work related to this Contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The Contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without the prior written consent of County.

## **Section 22. Incorporation of Federal Transit Administration (FTA) Terms**

The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1E, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any County requests which would cause County to be in violation of the FTA terms and conditions.

## **Section 23. Government-Wide Debarment and Suspension (Non-Procurement)**

23.1 This contract is a covered transaction for purposes of 49 CFR Part 29. As such, the Contractor is required to verify that none of the Contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

23.2 Contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

23.3 By signing and submitting its bid or proposal, the bidder or proposer certifies as follows: The certification in this clause is a material representation of fact relied upon by County. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to County, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

## **Section 24. Lobbying**

Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to

the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

#### **Section 25. Clean Air**

Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq . The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office. The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

#### **Section 26. Clean Water**

Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq . The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office. Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

#### **Section 27. Energy Conservation Requirements**

Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

#### **Section 28. Seismic Safety**

Contractor agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation Seismic Safety Regulations 49 CFR Part 41 and will certify to compliance to the extent required by the regulation. Contractor also agrees to ensure that all work performed under this contract including work performed by a subcontractor is in compliance with the standards required by the Seismic Safety Regulations and the certification of compliance issued on the project.

#### **Section 29. Access for Individuals with Disabilities**

29.1 Contractor agrees to comply with 49 U.S.C. § 5301(d), which states the Federal policy that elderly individuals and individuals with disabilities have the same right as other individuals to use public transportation services and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement transportation accessibility rights for elderly individuals and individuals with disabilities. Contractor also agrees to comply with all applicable provisions of section 504 of the Rehabilitation Act of 1973, as amended, with 29 U.S.C. § 794, which prohibits discrimination on the basis of disability; with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 *et seq.*, which requires that accessible facilities and services be made available to individuals with disabilities; and with the Architectural Barriers Act of 1968, as amended, 42 U.S.C. §§ 4151 *et seq.*, which requires that buildings and public accommodations be accessible to individuals with disabilities, and any subsequent amendments to these laws. In addition, Contractor agrees to comply with applicable implementing Federal regulations and directives and any subsequent amendments thereto, as follows:

29.1.1 U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 C.F.R. Part 37;

29.1.2 U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 C.F.R. Part 27;

29.1.3 Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB)/U.S. DOT regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 C.F.R. Part 1192 and 49 C.F.R. Part 38;

29.1.4 U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. Part 35;

29.1.5 U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. Part 36;

29.1.6 U.S. General Services Administration (U.S. GSA) regulations, "Accommodations for the Physically Handicapped," 41 C.F.R. Subpart 101-19;

29.1.7 U.S. EEOC, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630;

29.1.8 U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled," 47 C.F.R. Part 64, Subpart F; and

29.1.9 U.S. ATBCB regulations, "Electronic and Information Technology Accessibility Standards," 36 C.F.R. Part 1194;

29.1.10 FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 C.F.R. Part 609; and

29.1.11 Federal civil rights and nondiscrimination directives implementing the foregoing regulations, except to the extent the Federal Government determines otherwise in writing.

### **Section 30. Dispute Resolution**

30.1 The parties shall attempt in good faith to resolve promptly any dispute arising out of or relating to this Agreement by negotiation between the parties. In the event the dispute cannot be settled through negotiation, the parties agree to submit the dispute to mediation.

30.2 The party requesting mediation shall notify the other party in writing of the dispute desired to be mediated. If the parties are unable to resolve their differences within ten (10) days of the receipt of such notice, such dispute shall be submitted for mediation.

30.3 Each party shall be responsible for its own costs associated with the mediation.

30.4 The requirement to seek mediation shall be a condition required before filing an action at law or in equity, unless to do so would prevent either party from seeking relief in a court of law or equity under any applicable statute of limitations.

### **Section 31. Assignment and Delegation**

31.1 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.

31.2 Neither party may delegate any performance under this Agreement.

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

### **Section 32. 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 33. 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 34. Third Party Beneficiaries**

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

**Section 35. 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 36. 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 37. Captions**

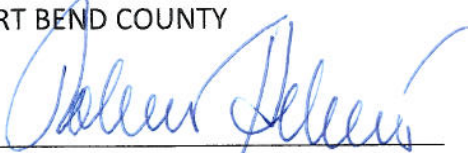
The section captions used in this Agreement are for convenience of reference only and do not affect the interpretation or construction of this Agreement.

**Section 38. Conflict**

In the event there is a conflict between this Agreement and the attached exhibit, 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 1 day of April, 2014.

FORT BEND COUNTY



Robert E. Hebert, County Judge

4-1-2014

LOCKWOOD, ANDREWS & NEWNAM, INC.



Authorized Agent- Signature

JON D. JUREK

Authorized Agent- Printed Name

ASSOCIATE, TEAM LEADER

Title

3/26/14

Date


ATTEST:



Dianne Wilson, County Clerk

#### AUDITOR'S CERTIFICATE

I hereby certify that funds are available in the amount of \$ 937,196<sup>00</sup> to accomplish and pay the obligation of Fort Bend County under this contract.



Robert Edward Sturdivant, County Auditor



# EXHIBIT A

## Scope of Work

Contractor will provide all advanced planning work, preliminary engineering design, environmental assessment, and property acquisition services, final design, architectural and engineering services and the bidding documents necessary to construct an Administration and Operations facility for services provided by the County Public Transportation Department. Contractor understands that other elements may be required by funding sources or as the project progresses. At each stage of design and analysis Contractor will provide for County comments and address all comments subsequent to each design phase or analysis process.

The proposed project will include the following elements:

- An Administration and Operations facility of approximately 18,000 square feet which includes accommodations for administrative activities, reservations and customer service, dispatch activities, fare sales and collections, traffic management, and driver work/break/scheduling area.
- Approximately 160,000 square feet for Employee and bus parking.
- A bus wash facility of approximately 14,000 square feet.
- A Maintenance facility for bus and service vehicle repair of approximately 29,000 square feet.
- Fuel site to accommodate unleaded and diesel fuels. Alternative fuels may be considered in the future.

Advanced Planning tasks will be provided to determine site selection for the proposed Administration and Operations Facility. These activities will be provided for sites that may or may not include the need to construct all elements of the proposed facility. Final site selection(s) will determine design, and environmental requirements. The scope includes provisions for a site that may qualify for an environmental categorical exclusion, or an environmental impact statement, or a full scale environmental assessment.

The Advanced Planning sub-task will include but not be limited to the following elements for each site considered:

**Site Selection Analysis:** Coordination, preparation and documentation of a detailed site selection analysis process to confirm the location(s) of the project. Site selection analysis criteria will include but not be limited to collection and analysis of demographic, land use, employer, ridership, local code analysis, utility infrastructure, traffic and other data and information related to the proposed improvement and adjacent land uses and environmental impacts associated with the development of the project. Preparation of technical reports

identifying and justifying facility demand, size, and amenities inclusive of impact analysis on bus service costs related to each specific site location will also be performed with results included in the related report.

**Site Layout/Building Schematic:** A qualified Architect and Engineer shall prepare a functional site layout of the selected project site that satisfies design criteria related to access, employee and passenger amenities, employee and visitor parking, bus and bus parking and staging, bus fueling, bus washing, and other external maintenance functions as applicable. A building schematic that meets the project's scope of work (bus bays, communal areas, tool shop, tire shop, lube shop, offices, etc.) will also be provided with related cost estimates.

**Environmental Assessment:** An environmental assessment of the project shall be performed in accordance with state and federal guidelines. Environmental issues to be assessed include, but are not limited to, air quality, noise, water quality, hazardous waste, construction impacts, historic impacts, noise and vibration, wetlands, floodplains, endangered, threatened or invasive species, soils/geology, hazardous waste, socioeconomic/community impacts, construction impacts and/or impacts to historic, archaeological, architectural and cultural resources as necessary. The level of detail of the analysis will be dependent upon the severity of each potential impact as it relates to the selected site(s).

Data collection and desktop analyses using available up-to-date data sources will be used to expedite impact evaluation and to collect and verify data. Where applicable, windshield surveys will be completed to verify data and aerial base maps used to evaluate and present reasonable alternatives. To verify and augment the desktop analyses, strategic and limited field verification and reconnaissance surveys will be completed for the reasonable alternatives. This level of effort will focus on areas of high probability for environmental concerns. Technical chapters of the environmental assessment will be produced on a subject basis for the topics listed above where applicable. As necessary, the report document will include summaries of applicable local, state, and federal regulatory statutes and regulations, appropriate descriptions of existing conditions/affected environment, impacts of proposed actions on the resources present, and brief descriptions of the methodology used to collect and analyze data. Where applicable detail will be included for measures to avoid, minimize and/or mitigate impacts on the resources present for significant impacts.

Historic documentation required for any project site that is historic or located in an historic area will be assessed and included. As identified in the environmental assessment, where and when applicable, a historical documentation report of property to be donated or acquired will be included. The Historical documentation will include a narrative history and architectural drawings of each affected property in compliance with the Texas Historical Commission and the U.S. Department of Interior requirements.

Facilitation and coordination of public and agency concurrence/approval/ input shall also be performed. Services will include all steps necessary to seek agency input/concurrence/approval and to conduct public input activities on the proposed project. Outcomes of any public

hearings as well as incorporation of agency input and funding source supplemental questions, comments and/or requirements shall be included in the final report. Contractor will provide the appropriate documentation, displays, etc. needed to solicit and receive public input. Should the selected site be deemed unsatisfactory as a result of public input, contractor will provide the services necessary to offer a secondary site for consideration. All aspects of the public input process shall be documented with the related responses in the environmental report. Contractor will prepare the environmental assessment report and submit a draft to designated reviewing agencies, which may include the Texas Commission on Environmental Quality, the Texas Historical Commission, the Army Corps of Engineering, the U.S. Environmental Protection Agency, and/or the U.S. Department of Justice. Their input, questions, recommendations and the County's response will be incorporated into the final report. The final report will be furnished to funding agencies, including the U.S. Department of Transportation and/or Federal Transit Administration. Modifications necessary to achieve federal concurrence with the environmental finding are included as necessary.

**Property Acquisition Services:** County will utilize federal, state and local funding sources to procure the land or facility necessary to complete this project. County may utilize property or facilities already owned by the County and/or donated to the County by either or both the public or private sector and may also utilize property or facilities under lease agreements. As such, transfer of property, lease of properties and/or acquisitions will adhere to funding agency rules, regulations and process requirements. During the design process, Contractor will determine if additional land or right-of-ways are necessary. If they are, Contractor will review the issues and assist County by developing policies, procedures and practices that comply with funding agency requirements and/or by developing data and documentation schedules necessary to respond to agency requirements. Where and when applicable, contractor may serve as the County's representative in acquisition negotiations and will conduct good-faith negotiations with the owner. Other services will include but not be limited to planning, preparation and conduct of related public meetings/hearings, presentations to owners (Notice of Intent to Acquire, appraisals and review appraisals for property owners, Offer of Just Compensation, etc.) and if required, be available for legal testimony as necessary and/or produce exhibits for the hearings and consultation in preparation for hearings throughout condemnation proceedings should they be necessary. Subsequent activities may include surveying and platting services by qualified individuals or firms.

For each property owned by, donated to or acquired by The County for project utilization an appraisal and review appraisal will be provided. Contractor will provide appraisal documents and services that comply with funding agency requirements. Appraisal services will be provided by licensed individuals/firms. In the case of a review appraisal, a separate firm/individual from the firm/individual providing the initial appraisal will be utilized. Appraisers used will be experienced in and familiar with the local market and issues and/or experienced in or familiar with the types of property or facilities being donated or purchased. Donations and/or acquisitions may include land, buildings, equipment, inventories, personal property, etc. Where and when applicable, appraisals will value these elements and individuals/firms utilized for these types of acquisitions will be experienced in or familiar with the property being valued.

Where and when applicable, for each property owned by, donated to or acquired by the County for utilization on the project, platting services will be provided. The firm used to perform platting service will have demonstrated competence in areas of engineering. Services shall be turn-key and include all engineering, surveying, permitting, and governmental coordination necessary to complete platting activities. Services will include but not be limited to the necessary research in the County Clerk's Office to obtain Deed Record description of the subject tract; on-the-ground survey by field crew of the described boundary lines and monuments; provide and establish survey control by global positioning system methods to reference boundary lines to the Texas Coordinates System of 1983, South Central Zone; location of existing improvements on site; location and detail of visible public and private utilities adjacent to site; show approximate location of underground utilities from available as-built plans; tie elevations to current mean sea level datum; establish temporary benchmark on site; obtain existing natural ground elevations on approximate grid system on site; obtain elevations and cross-section of existing drainage swales and roadway adjoining the site; office calculations necessary to check location of the boundary lines in relation to features found during the course of the survey; calculation of lots, street right-of-ways and plat boundaries; calculation of survey reference data for plat as required; preparation of preliminary plat and/or existing conditions survey (as required by class of subdivision plat) depicting topographic features found during course of survey work; setting or flagging corner monumentation; preparation of final plat including dedication language; preparation and submission of final plat application to the applicable City and to County; submittal of plat to utility companies for notification; attend planning commission, city council meetings, and county meetings as required; assist the County with plat approval process including preparation and conduct of adjacent lot-owner notification (as required); preparation of three (3) original mylars of the subdivision plat.

**Preliminary Design and Engineering, Final Engineering and design:** A preliminary engineering report will be provided and upon acceptance by funding agencies, final design, engineering and construction documents will be provided. The preliminary engineering report will include basic project costs, engineering needs and phases and traffic analysis. Elements of the preliminary engineering and design will be provided to initiate and/or complete the environmental assessment. All Federal Transit Administration requirements will be addressed, to include but not be limited to, lot and roadway design, traffic control plans, traffic analysis, use analysis, site selection analysis, drainage design, operating and maintenance costs, security and safety considerations, lighting, environmental assessment, etc. In addition, varying technical and administrative services and assistance are anticipated to respond to funding source requirements as part of these services. Services will include but not be limited to the following elements:

Architect and Engineer. Provide architectural and engineering services related to the project from concept through the construction phases. Provide technical assistance and reports as applicable. Project funding will include local government funding as well as funding provided by or through the Texas Department of Transportation, Federal Transit Administration and/or The Federal Highways Administration and as such, requirements imposed by these funding agencies

will be followed for the project as applicable. Contractor will insure that contracting and services comply with related regulations, processes and requirements and provide required plans, documentation, reports, analysis, etc. as dictated by the funding sources.

Conceptual Services to develop the program for the site will include multiple teams working concurrently to get the background information together for the site studies. The programming teams will work with County to review and confirm the needs and program for the administrative and operations facilities. Other teams will review the sites to obtain data related to traffic flow, and roadway conditions and access. After this initial background stage, the teams will work together analyzing the operations, site conditions, and needs for the facility and present to County the advantages and disadvantages of the different choices. Concurrent to the site selection process, operations and maintenance facility programmers will work with County staff to finalize the programming needs for both the office area and the maintenance facility. Once the site is selected and the programming complete, Contractor will develop the site specific basis of design for the entire facility. As the project progresses in the design process, Contractor will maintain the documents necessary for County, FTA and other regulation agencies. Documentation will include but not be limited to design decision justifications, design submissions, peer review, quality control reviews, and costing data.

At the start of the project, Contractor will conduct site workshops and prepare questionnaires; analyze operational requirements; and project future personnel and space requirements to formulate both current and long-range needs. A phased project approach will be provided which allows the development of state-of-the-art facilities that accommodate both current and planned growth models. A long range program plan will be developed to project personnel, storage, equipment, and common space needs. Contractor will facilitate discussion with County to evaluate the implication of move-in versus future needs and the impact on facility size and cost. Various conceptual schemes and existing conditions will be analyzed taking into account the access, circulation, security, drainage, and environmental for the site to ensure maximum flexibility to account for future changes. As necessary or requested throughout the process, preliminary budgets will be provided to aid in early evaluation of the project viability. Budgets will include, building costs, equipment costs, furnishings, utility improvements, etc. using best practices for preparing these estimates (Published regional cost data-means, AGC Cost reports, ENR reports, Professional cost estimators, Contractors and subcontractors, In-house cost data, etc.).

**Design & Analysis.** Technical assistance, analysis, and evaluation of design drawings through the project's preliminary, pre-final, and final designs will be provided to funding agencies, the County and/or the County's contractor (as applicable) as needed. Contractor will look at the project globally, analyze the sites, perform test fits, and assist the County in determining the best choice for site and facility design. As applicable, the basic architectural programming of the facility will include but not be limited to the following:

- Traffic studies for the sites to determine the paths of travel and issues associated with the increased traffic in the area created by the facility.

- Transportation reviews of the area roadwork and site access paths to determine if turning or acceleration lanes need to be added.
- Traffic Analyses for location, ingress and egress and impact.
- Roadway reviews to determine if additional easements or right-of-ways are needed.
- Analysis of effects of site location on transit operational functions.
- Maintenance facility programming and design using current best practices for the design of the operating facility.
- Onsite circulation reviews to look at the interaction between the buses, cars, and pedestrians.
- Fueling station design including fuel monitoring and leak detection systems.
- Bus wash equipment and connection with the possibility of water reuse.
- Operations facility programming and planning.

**Value Engineering.** A value engineering review of the project's design will be performed in accordance with federal regulations. Recommendations for cost saving methods identified during the value engineering exercise will be provided. At milestone dates, Value Engineering reviews of the design to assure the project is being designed with the best value will be performed. The reviews will follow established guidelines for Value Engineering and have the goal of lowering the overall first cost of the project while not having a negative impact to the life cycle cost. A clear basis of design for the project will be developed and Contractor will ensure it is followed.

**Peer Review.** If required, a group of professionals with practical experience in developing similar projects will be assembled to review the project. Contractor will coordinate review of the project by these professionals, document suggested improvements and response to those suggestions regarding the project's design, construction, and operation. Related documents will be forwarded to County, funding agencies and contractors as applicable. Where applicable, design changes will be incorporated in design reports/documents.

**Construction.** Contractor will prepare construction documents as necessary, assist County personnel in construction service procurement processes, respond to construction activity findings and work with the project's construction manager and contractor to insure timely completion of the project's construction contract. During construction service procurement phase, services will include assistance with bid evaluation and award processes, responses to questions during the bidding process, etc. During construction, services will include technical assistance, analysis and evaluation of all unforeseen construction circumstances to include RFI's, submittals and shop drawing reviews, change order request review and appropriate recommendations to County. Contractor will also assist with the construction close-out phase of the project and if necessary, will include assistance and consultation during the warranty period.

Contractor may be required to assist and/or consult with other firms retained under this Agreement or other procurement processes and/or County may need to seek additional one-

time objective opinions for various services or documents provided under this agreement. County may procure these services or require Contractor to procure the services.

# EXHIBIT B

**WORK AUTHORIZATION NO. \_\_\_\_**  
**AGREEMENT FOR PROFESSIONAL SERVICES**

**THIS WORK AUTHORIZATION** is made and entered into pursuant to the terms and conditions of Section 2 of the Agreement for Planning, Engineering, Environmental Analysis, and Design, executed by Fort Bend County and Lockwood, Andrews & Newnam, Inc., (hereinafter "Contractor"), on March \_\_\_, 2014.

**PART I.** Contractor will perform professional services as defined in the attached Exhibit A.

**PART II.** The maximum amount payable under this Work Authorization is \_\_\_\_\_. This amount is based upon fees set forth in Attachment B.

**PART III.** Payment to the Consultant for the services established under this Work Authorization shall be made in accordance with Section 4 of the Agreement.

**PART IV.** This Work Authorization shall become effective on the date of final acceptance of the parties hereto, and shall terminate on \_\_\_\_\_, unless extended by a Supplemental Work Authorization as provided in the Agreement.

**PART V.** This Work Authorization does not waive the parties' responsibilities and obligations provided under the Agreement.

**IN WITNESS WHEREOF**, this Work Authorization is executed in duplicate counterparts and hereby accepted and acknowledged below.

FORT BEND COUNTY

LOCKWOOD, ANDREWS & NEWNAM, INC.

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

\_\_\_\_\_  
Authorized Agent- Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Authorized Agent- Printed Name

ATTEST:

\_\_\_\_\_  
Title

\_\_\_\_\_  
Dianne Wilson, County Clerk

\_\_\_\_\_  
Date

# EXHIBIT C

<b>Design Costs</b>			
	<b>Set Fee</b>	<b>Allowance</b>	<b>Total NTE</b>
Base Fee	\$479,696		
Survey		\$16,000	
Fueling System - Packaged		\$25,000	
Recycled Water Bus Wash - Packaged		\$25,000	
Oil/Water Separator		\$10,000	
Vehicle Lifts/Comp. Air		\$20,000	
Site Selection		\$254,800	
Environmental		\$106,700	
<b>Total Not To Exceed</b>	<b>\$479,696</b>	<b>\$457,500</b>	<b>\$937,196</b>

# EXHIBIT D

Firm	Discipline	Key Personnel
Lockwood, Andrews, & Newnam LAN	Project Management	Don Richards
	Principal in Charge	Joe Waterfield
	Structural Engineering	Jon Jelinek
	Mechanical Engineering	Rollie McNutt
	Electrical Engineering	Denney Howard
	Plumbing Design	Richard Beatty
	Traffic Engineering	Tom Duncan
	Fire Alarm, Security, Telecom.	Jeff Thomas
	Environmental	Rick Mobley
	Transportation (FTA Advisor)	Stephen Roth
	Right of Way/Appraisal	Lori Bible
	Peer Review/VE Study	Jeff Thomas
	Public Awareness	Rick Mobley
Whitney & Associates	Appraiser	Matthew C. Whitney
Maintenance Design Group	Master Planning/Concept Design	Mark A. Ellis
RdlR Architects, Inc.	Architect	Howard Merrill, III
		Daniel Ortiz

STATE OF TEXAS                   §  
   §  
COUNTY OF FORT BEND       §

#24A

**AMENDMENT NO. 1 TO AGREEMENT FOR  
PLANNING, ENGINEERING, ENVIRONMENTAL ANALYSIS AND DESIGN SOQ 14-027**

**THIS FIRST AMENDMENT**, 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 Lockwood, Andrews & Newman, Inc., (hereinafter "Contractor"), a company authorized to conduct business in the State of Texas.

WHEREAS, the parties executed and accepted that certain Agreement for Planning, Engineering, Environmental Analysis and Design SOQ 14-027 on April 1, 2014, (hereinafter "Agreement"), attached hereto as Exhibit A and incorporated by reference herein for all purposes; and

WHEREAS, the following changes are incorporated as if a part of the original Agreement incorporated by reference in the same as if fully set forth verbatim herein:

**NOW, THEREFORE**, the parties do mutually agree as follows:

1. The Maximum Compensation for the Scope of Services including reimbursable expenses shall be increased by three hundred eighteen thousand two hundred and thirty dollars and no/cents (\$318,230.00) bringing the new Total Maximum Compensation to one million two hundred fifty five thousand four hundred and twenty six dollars and no/cents (\$1,255,426.00). In no case shall the amount paid by County for Scope of Services exceed the Maximum Compensation without prior written approval by both parties.
2. All terms and conditions of the Agreement, including any addenda or amendments, not modified herein shall remain in full force and effect for the term of Agreement. If there is a conflict between this First Amendment and the Agreement for Planning, Engineering, Environmental Analysis and Design SOQ 14-027, the provisions of this First Amendment shall prevail with regard to the conflict.

Except as provided herein, all terms and conditions of the Agreement shall remain unchanged.

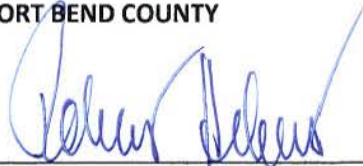
*{Execution Page Follows}*

*{Remainder Intentionally Left Blank}*



IN WITNESS WHEREOF, the parties put their hands to this Amendment on the dates indicated below.

**FORT BEND COUNTY**

  
Robert E. Hebert, County Judge  
11-3-2015

**LOCKWOOD, ANDREWS & NEWNAM,  
INC.**

  
Authorized Agent- Signature

Jon D. JELINEK  
Authorized Agent- Printed Name

ASSOCIATE TEAM LEADER  
Title

10/29/15  
Date

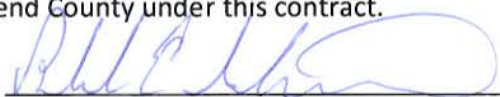
ATTEST:

  
Laura Richard, County Clerk



**AUDITOR'S CERTIFICATE**

I hereby certify that funds are available in the amount of \$ 1,255,426.00 to accomplish and pay the obligation of Fort Bend County under this contract.

  
Robert Edward Sturdivant, County Auditor

STATE OF TEXAS                   §  
   §  
COUNTY OF FORT BEND       §

**AMENDMENT NO. 2 TO AGREEMENT FOR  
PLANNING, ENGINEERING, ENVIRONMENTAL ANALYSIS AND DESIGN SOQ 14-027**

**THIS FIRST AMENDMENT**, 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 Lockwood, Andrews & Newman, Inc., (hereinafter "Contractor"), a company authorized to conduct business in the State of Texas.

WHEREAS, the parties executed and accepted that certain Agreement for Planning, Engineering, Environmental Analysis and Design SOQ 14-027 on April 1, 2014, (hereinafter "Agreement"), and as amended on November 13, 2015, attached hereto as Exhibit A and incorporated by reference herein for all purposes; and

WHEREAS, due to increases in the size and cost of the proposed transit facility, the parties wish to increase the total maximum compensation, as best explained in Exhibit B (letter dated August 11, 2016); and

WHEREAS, the following changes are incorporated as if a part of the original Agreement incorporated by reference in the same as if fully set forth verbatim herein:

**NOW, THEREFORE**, the parties do mutually agree as follows:

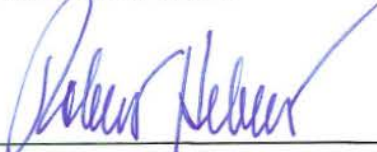
1. The Maximum Compensation for the Scope of Services including reimbursable expenses shall be increased by four hundred seven thousand three hundred and thirty-five dollars and no/cents (\$407,335.00) bringing the new Total Maximum Compensation to one million six hundred sixty-two thousand seven hundred and sixty-one dollars and no/cents (\$1,662,761.00). In no case shall the amount paid by County for Scope of Services exceed the Maximum Compensation without prior written approval by both parties.
2. All terms and conditions of the Agreement, including any addenda or amendments, not modified herein shall remain in full force and effect for the term of Agreement. If there is a conflict between this First Amendment and the Agreement for Planning, Engineering, Environmental Analysis and Design SOQ 14-027, the provisions of this First Amendment shall prevail with regard to the conflict.

Except as provided herein, all terms and conditions of the Agreement shall remain unchanged.

*{Execution Page Follows}*

IN WITNESS WHEREOF, the parties put their hands to this Amendment on the dates indicated below.

**FORT BEND COUNTY**

  
Robert E. Hebert, County Judge  
*September 6, 2016*

**LOCKWOOD, ANDREWS & NEWNAM,  
INC.**

  
Authorized Agent- Signature

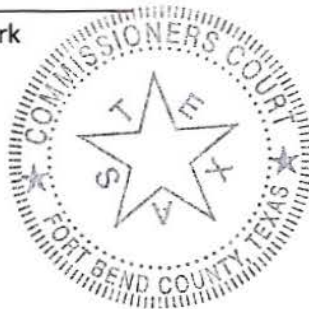
*Jeffrey R. Travis*  
Authorized Agent- Printed Name

ATTEST:

*Laura Richard*  
Laura Richard, County Clerk

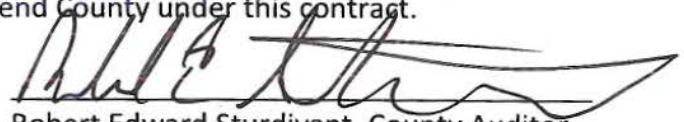
*ASSOCIATE, TERM LEADER*  
Title

*8/22/16*  
Date



**AUDITOR'S CERTIFICATE**

I hereby certify that funds are available in the amount of \$4,662,761.<sup>00</sup> to accomplish and pay the obligation of Fort Bend County under this contract.

  
Robert Edward Sturdivant, County Auditor

# ATTACHMENT B

to AMENDMENT #3 (which replaces Exhibit C)

## EXHIBIT C

### LOCKWOOD ANDREWS AND NEWNAM, INC. DESIGN COSTS AMENDMENT #3

DESIGN COSTS	ORIGINAL CONTRACT	CONTRACT AMENDMENT 1	CONTRACT AMENDMENT 2	CONTRACT AMENDMENT 3	TOTAL
BASE FEE	479,696		407,335	8,610	895,641
SURVEY	16,000				16,000
FUEL SYSTEM PACKAGED	25,000				25,000
RECYCLE BUS WASH PACKAGE	25,000				25,000
OIL/WATER SEPARATOR	10,000				10,000
VEHICLE LIFTS/COMP.AIR	20,000				20,000
SITE SELECTION-(ADVANCE PLANNING/PER)	254,800			-8,610	246,190
ENVIRONMENTAL	106,700				106,700
<i>Additional Services \$318,230</i>					0
<i>Modify Existing Fuel Depot</i>		55,000			55,000
<i>Extend Bamore Road 1750'</i>		188,000			188,000
<i>Obtain ROW for Bamore Extension</i>		15,000			15,000
<i>FFE Office Space Turn Key</i>		42,680			42,680
<i>FFE Maintenance Turnkey</i>		3,750			3,750
<i>LONP Preparation</i>		8,800			8,800
<i>Peer Review</i>		5,000			5,000
<b>Total</b>	937,196	318,230	407,335	0	1,662,761

**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:  
2017-197372

Date Filed:  
04/24/2017

Date Acknowledged:

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

Lockwood, Andrews & Newnam, 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

**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 services, goods, or other property to be provided under the contract.**

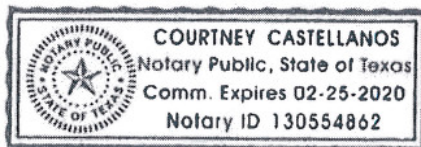
SOQ 14-027  
Amendment Engineering Services

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	Daly, III, Leo	Washington, DC United States	X	
	Petersen, Dennis	Houston, TX United States	X	
	Chrostek, John	Omaha, NE United States	X	
	Benes, Edward	Houston, TX United States	X	
	Brader, James	Omaha, NE United States	X	
	Curry, W. Derrell	Houston, TX United States	X	
	Boyd, J. Anthony	Houston, TX United States	X	
	Cohen, Arnold	Austin, TX United States	X	
	Vajdani, Sima	Los Angeles, CA United States	X	

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.



AFFIX NOTARY STAMP / SEAL ABOVE

Sworn to and subscribed before me, by the said Jon Jelinek, this the 24 day of April, 2017, to certify which, witness my hand and seal of office.

Signature of authorized agent or contracting business entity

Signature of officer administering oath

Courtney Castellanos  
Printed name of officer administering oath

Notary Public  
Title of officer administering oath