

STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

AGREEMENT FOR PROFESSIONAL ENGINEERING AND DESIGN 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 RPS Infrastructure, Inc. (hereinafter “Consultant”), a company authorized to conduct business in the State of Texas.

WITNESSETH

WHEREAS, County desires that Consultant provide professional engineering and design services for improvements to California Street from Trammel Fresno to 300-ft north of Trammel Fresno under Project No. 20221x under the Fort Bend County Mobility Program (hereinafter “Services”) pursuant to SOQ 14-025; and

WHEREAS, County has determined Consultant is the most highly qualified provider of the desired Services on the basis of demonstrated competence and qualifications, and County and Consultant have negotiated to reach a fair and reasonable amount of compensation for the provision of such Services, as required under Chapter 2254 of the Texas Government Code; and

WHEREAS, Consultant 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

Consultant shall render the professional engineering services as described in Consultant’s Scope of Services dated July 16, 2021, attached hereto as Exhibit A, and incorporated herein for all purposes.

Section 2. Personnel

2.1 Consultant 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 Consultant 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 Consultant shall have such knowledge and experience as will enable them to perform the duties assigned to them. Any employee of Consultant 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 3. Compensation and Payment

3.1 The Maximum Compensation for the performance of Services within the Scope of Services described in Exhibit A is forty-two thousand four hundred dollars and no/100 (\$42,400.00) as set forth in Exhibit A. In no case shall the amount paid by County under this Agreement exceed the Maximum Compensation without a written agreement executed by the parties.

3.2 All performance of the Scope of Services by Consultant 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 Consultant based on the following procedures: Upon completion of the tasks identified in the Scope of Services, Consultant shall submit to County staff person designated by the County Engineer, one (1) electronic (pdf) copy of the invoice 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 Consultant 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 forty-two thousand four hundred dollars and no/100 (\$42,400.00) specifically allocated to fully discharge any and all liabilities County may incur.

4.2 Consultant does further understand and agree, said understanding and agreement also being of the absolute essence of this Agreement, that the total maximum compensation that Consultant may become entitled to and the total maximum sum that County may become liable to pay to Consultant shall not under any conditions, circumstances, or interpretations thereof exceed forty-two thousand four hundred dollars and no/100 (\$42,400.00).

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 and end no later than December 31, 2025. Consultant shall complete the tasks described in the Scope of Services, within this time or within such additional time as may be extended by the County.

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 forty-eight (48) hours 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 Consultant 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 Consultant 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 Consultant 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 Consultant 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. Consultant'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 Consultant.

Section 8. Ownership and Reuse of Documents

All documents, data, reports, research, graphic presentation materials, etc., developed by Consultant 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. Consultant shall promptly furnish all such data and material to County on request.

Section 9. Inspection of Books and Records

Consultant will permit County, or any duly authorized agent of County, to inspect and examine the books and records of Consultant 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, Consultant 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. Consultant shall provide certified copies of insurance endorsements and/or policies if requested by County. Consultant 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. Consultant shall obtain such insurance written on an Occurrence form (or a Claims Made form for Professional Liability insurance) 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.

10.1.2 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.

10.1.3 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.

10.1.4 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.

10.1.5 Professional Liability insurance may be made on a Claims Made form 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 and Professional Liability. All Liability policies including Workers' Compensation written on behalf of Consultant 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, Consultant 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 HOLD HARMLESS COUNTY AGAINST LOSSES, LIABILITIES, CLAIMS, AND CAUSES OF ACTION, INCLUDING THE REIMBURSEMENT OF COUNTY'S REASONABLE ATTORNEYS FEES IN PROPORTION TO CONTRACTOR'S LIABILITY, ARISING FROM ACTIVITIES OF CONTRACTOR, ITS AGENTS, SERVANTS OR EMPLOYEES, PERFORMED UNDER THIS AGREEMENT THAT RESULT FROM THE NEGLIGENT ACT, INTENTIONAL TORT, ERROR, OR OMISSION OF CONTRACTOR OR ANY OF CONTRACTOR'S AGENTS, SERVANTS OR EMPLOYEES.

Section 12. Confidential and Proprietary Information

12.1 Consultant 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 Consultant 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 Consultant 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 Consultant) publicly known or is contained in a publicly available document; (b) is rightfully in Consultant'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 Consultant who can be shown to have had no access to the Confidential Information.

12.2 Consultant agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Consultant 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. Consultant 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, Consultant shall advise County

immediately in the event Consultant 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 Consultant will at its expense cooperate with County in seeking injunctive or other equitable relief in the name of County or Consultant against any such person. Consultant agrees that, except as directed by County, Consultant 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, Consultant will promptly turn over to County all documents, papers, and other matter in Consultant's possession which embody Confidential Information.

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

12.5 Consultant 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 Consultant

13.1 In the performance of work or services hereunder, Consultant 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 Consultant 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 Engineering Department
Attn: County Engineer
301 Jackson Street
Richmond, Texas 77469

With a copy to: Fort Bend County
Attn: County Judge
401 Jackson Street, 1st Floor
Richmond, Texas 77469

Consultant: RPS Infrastructure, Inc.
575 N. Dairy Ashford, Suite 700
Houston, Texas 77079

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

Consultant 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, Consultant shall furnish County with certification of compliance with said laws, statutes, ordinances, rules, regulations, orders, and decrees above specified.

Section 16. Standard of Care

Consultant represents shall perform the Services to be provided under this Agreement with the professional skill and care ordinarily provided by competent engineers practicing under the same or similar circumstances and professional license. Further, Consultant shall perform the Services as expeditiously as is prudent considering the ordinary professional skill and care of a competent engineer.

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 Consultant 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 Consultant 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.

Section 25. Certain State Law Requirements for Contracts

25.1 Agreement to Not Boycott Israel Chapter 2271 Texas Government Code: By signature below, Consultant verifies that if Consultant employs ten (10) or more full-time employees and this Agreement has a value of \$100,000 or more, Consultant does not boycott Israel and will not boycott Israel during the term of this Agreement.

25.2 Texas Government Code Section 2251.152 Acknowledgment: By signature below, Consultant represents pursuant to Section 2252.152 of the Texas Government Code, that Consultant is not listed on the website of the Comptroller of the State of Texas concerning the listing of companies that are identified under Section 806.051, Section 807.051 or Section 2253.153.

Section 26. Human Trafficking

BY ACCEPTANCE OF AGREEMENT, CONSULTANT ACKNOWLEDGES THAT THE COUNTY IS OPPOSED TO HUMAN TRAFFICKING AND THAT NO COUNTY FUNDS WILL BE USED IN SUPPORT OF SERVICES OR ACTIVITIES THAT VIOLATE HUMAN TRAFFICKING LAWS.

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK.]

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 date signed by the last party hereto.

FORT BEND COUNTY

RPS INFRASTRUCTURE, INC.

KP George, County Judge



Authorized Agent – Signature

Date

Lynn Pipkin, P.E.

Authorized Agent – Printed Name

ATTEST:

Office Leader - Transport

Title

Laura Richard, County Clerk

Date

APPROVED:



J. Stacy Slawinski, P.E., County Engineer

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 Ed Sturdivant, County Auditor

EXHIBIT A

Our ref: 001749

Date: July 26, 2021

575 N. Dairy Ashford
Suite 700
Houston, Texas 77079
T +1 281 589 7257

Mr. Stacy Slawinski, P.E.
Fort Bend County Engineering
301 Jackson Street
Richmond, Texas 77469

RE: Proposal for Engineering and Design Services for California Street from Trammel Fresno to 300-ft North of Trammel Fresno

Dear Mr. Slawinski:

We appreciate the opportunity to work with the County for engineering and design services on the subject project. This project includes engineering and design services for the replacement of a two-lane asphalt roadway with a two-lane concrete pavement roadway along California Street. It also includes adding sidewalk on the West side of California Street from Trammel Fresno to 300-ft North of Trammel Fresno and regrading the West side ditch adjacent to the proposed sidewalk.

Scope of Services

- | | |
|---|-------------|
| • Survey | \$ 8,600.00 |
| • PS&E Documents (includes Bidding & CPS) | \$33,800.00 |

Fee

The Engineer will perform the above Scope of Services based on a fixed price of Forty-Two Thousand Four Hundred Dollars (\$42,400.00). Invoices will be submitted monthly and will reflect the percentage of the project completed at the date of the invoice.

RPS appreciates the opportunity to prepare this proposal for Fort Bend County and hopes that it meets with your approval. If you have any questions concerning this proposal, please feel free to contact me directly. RPS looks forward to a successful project delivery.

Yours sincerely,



Gabriel Odreman, PE

Project Manager
Gabriel.odreman@rpsgroup.com
+1 (281) 902-3501

Cc: Mr. Ike Akinwande



10190 Katy Freeway, Suite 110
Houston, Texas 77043
Office: 346.250.4425
Fax: 512.583.2601

Doucetengineers.com
TBPLS Firm No. 10194551

August 31, 2021

Gabriel Odreman, PE, PMP
Project Manager
RPS North America, Inc.
T +1 281 589 7257
E gabriel.odreman@rpsgroup.com

Re: California Street Topographic Survey and Right-of-Way Mapping

Dear Mr. Odreman,

Doucet & Associates, Inc. (Doucet) is pleased to submit this proposal for Geospatial services for the above referenced project. Please review this proposal and its attachments and, if acceptable to you, sign it and return it to the undersigned.

PROJECT

It is our understanding that RPS North America, Inc. (client) is requesting a topographic and right-of-way survey for California Street located in Fort Bend County, Texas.

SCOPE OF SERVICES

Doucet proposes to provide RPS North America, Inc. (Client) the following Land Surveying or Geospatial Services:

A. TSPS Category 6, Condition II Topographic Survey (705)

Doucet will perform topographic survey of the areas shown (outlined in red) in Exhibit "A".

The surveys will be performed in accordance with TSPS Standards for a Category 6 Condition II Topographic survey and will be based on NAD 83 (2011) using NAVD88 vertical datum with Geoid 12B, adjusted to best available Harris County Floodplain Reference Marks or to the local Virtual Reference Station (VRS) network. Coordinates will be provided in surface and a combined scale factor will be provided to convert to grid.

Minimum of three (3) survey control points will be established and shown on the survey.

Visible improvements and surface features including but not limited to buildings, utilities, power poles, sprinkler boxes, culverts, manholes, traffic signal poles, and curbing will be included.

Outside limits of grouping of trees will be surveyed, while standalone trees with 6 inch or greater diameter will be surveyed and labeled with common name.

Elevations and grade-breaks will be surveyed at a minimum 50-foot grid. A digital terrain model (DTM) will be generated and 1-foot contours displayed on the face of the survey.

COMMITMENT YOU EXPECT.
EXPERIENCE YOU NEED.
PEOPLE YOU TRUST.



Flowline elevations of found storm and sanitary structures will be identified.

Current FEMA floodplain maps will be researched, and flood zones will be noted and shown on the survey.

Doucet will contact Texas 811 for utility locates and include surveyed marks as part of the survey.

B. TSPS Category 1B Boundary Survey (701)

Doucet will perform boundary survey to show right-of-way lines, easements, and adjoiner ownership within the area shown (outlined in red) in Exhibit "A".

The survey will be performed in accordance with TSPS Standards for a Category 1B Condition II Boundary Survey and will be based on Texas State Plane, South Central Zone, NAD 83 (2011) coordinates.

A Texas Registered Professional Land Surveyor will direct all aspects of the survey.

Deliverables:

The deliverables included for this task shall include the following:

- First Submittal (15 calendar days from NTP)
 - CAD file
 - Point file
 - 22x34 PDF file including control sheet
- Field Verification Walk
- Final Sealed Submittal
 - Updated CAD and point file
 - Signed and Sealed survey and control sheet

ASSUMPTIONS

- This proposal only includes those items specifically identified in the scope of services above. Any work requested by the Project Team not specifically identified herein shall be considered outside of scope, and shall require approval of a written work scope change order, prior to proceeding with any work.
- Additional services required by the Client that are not outlined above, will be billed to Client based on written amendments to this contract.
- This proposal does not include any fees related to City or other agency reviews, as such all governmental and review fees will be paid by the Client.
- This proposal does not include environmental site assessments, geo-technical site investigations, traffic analysis or engineering, structural engineering, landscape architecture, Flood Studies or mapping or coordination with respective consultants.
- If work is suspended for any reason for more than two months, the fee for remaining work may be re-negotiated.
- Unusual boundary circumstances including necessary research beyond that furnished by a title company, if a title commitment is received, and extensive analysis required due to discrepancies in property descriptions between subject and adjoining property deeds and where inadequate/ insufficient monumentation exists on



the ground to meet mandated standards for boundary resolution, or where tracts for which gaps or gore determinations are required, or applicability of archaic, vague or poorly documented descriptions can cause delay and added effort to resolve and requires approval of a supplemental services agreement to address.

- Invoicing for surveying services will align with the deliverable schedule and will be based on lump sum/percent complete terms.

COMPENSATION

Client will pay Doucet for the Services in accordance with the Fee Schedule and General Terms and Conditions attached hereto. **If this agreement is not executed by Client within 30 days of the date of this proposal, Doucet reserves the right to renegotiate the estimated fees.** The estimated cost of the Services and basis of payment is as follows:

Description	Basis of Payment	Estimated Fee
I. Geospatial		
A. TSPS Category 6, Condition II Topographic Survey (705)	Lump Sum	\$ 4,820.00
B. TSPS Category 1B Boundary Survey	Lump Sum	\$ 3,780.00
	Project Total:	\$ 8,600.00



APPROVAL

Attached to this letter proposal are a fee schedule (A) and general terms and conditions (B). If you agree to the terms set forth in the proposal and the attachments, please sign the proposal below and return one copy to Doucet for our files. If you have any questions regarding this proposal and the attachments, please feel free to contact me.

We appreciate the opportunity to provide this proposal and look forward to working with you and the rest of your team.

Sincerely,

A handwritten signature in black ink that reads 'Dillon Fugate'.

Dillon Fugate, RPLS
Division Manager, Geospatial

TBPE Firm #3937
TBPELS Firm #10105800

Terms and Conditions of Letter Proposal and Attachments
Agreed to this _____ day of _____, 2021.

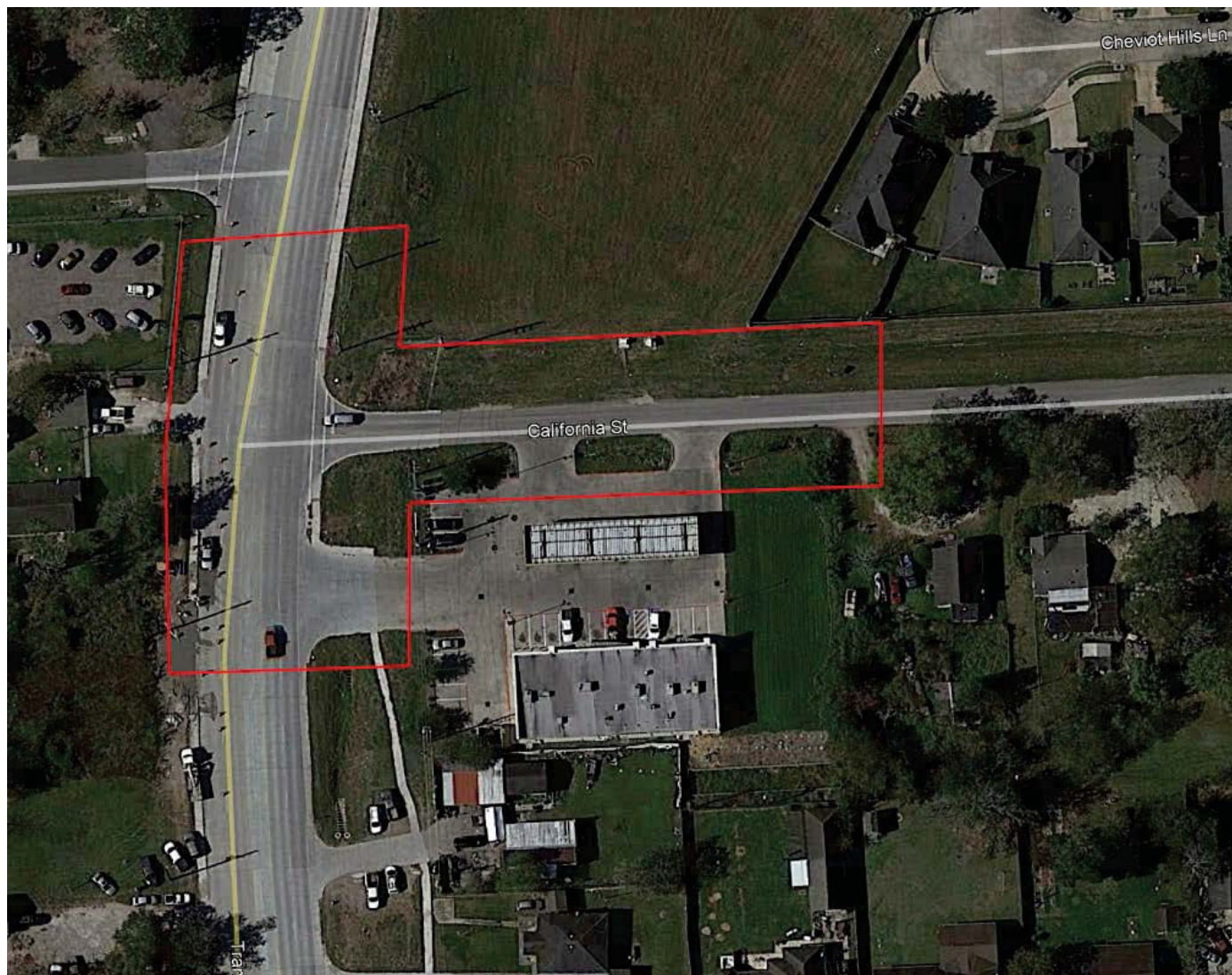
RPS North America, Inc.

By: _____

Name: _____

Title: _____

EXHIBIT "A"



Schedule A

Doucet & Associates 2021 Fee Schedule (effective 1/1/2021)

<u>Personnel</u>	<u>Hourly Fee</u>	<u>Personnel</u>	<u>Hourly Fee</u>
Principal Engineer (PE)	\$250.00	Principal Surveyor (RPLS)	\$250.00
Senior Project Manager	\$230.00	Project Manager (RPLS)	\$210.00
Project Manager	\$200.00	Project Coordinator	\$140.00
Senior Project Engineer (PE)	\$185.00	Survey Specialist	\$130.00
Project Engineer III	\$170.00	Survey Technician	\$105.00
Project Engineer II	\$160.00	GIS Specialist	\$130.00
Project Engineer I	\$145.00	GIS Technician	\$100.00
Engineer Associate II	\$130.00	LiDAR Specialist	\$130.00
Engineer Associate I	\$115.00	LiDAR Technician	\$100.00
Sr. Construction Manager	\$150.00	Aerial Mapping Specialist	\$130.00
Construction Manager	\$110.00	Aerial Mapping Technician	\$100.00
Program Manager	\$110.00	Utility Specialist	\$130.00
Sr. Civil Technician	\$140.00	Utility Technician	\$100.00
Civil Technician	\$125.00	Field Coordinator	\$140.00
Assistant Civil Technician	\$115.00	Field Specialist	\$110.00
		Crew of 1	\$115.00
Senior Planner (AICP)	\$170.00	Crew of 2	\$160.00
Project Planner	\$155.00	Crew of 3	\$210.00
Staff Planner	\$115.00	Division Administrator	\$100.00
Planning Technician	\$105.00	LiDAR Scanner	\$100.00/hr
		Drone	\$600.00/hr
Sr. Operations Assistant	\$100.00	Ground Targets	\$25/ea
Operations Assistant	\$ 75.00	Concrete Monuments	\$250/ea
		ATV/Boat/Sonar	\$100/day
Expert Witness	\$525.00	Mileage	Current IRS rate

D&A reserves the right to periodically adjust our fee schedule.

Reimbursable Expenses

Direct non-salary expenses incurred and not applicable to general overhead are billed at cost plus fifteen percent (15%) for administrative and handling charges. Please note that physical backup for reimbursable expenses will not be included with invoices unless a written request to do so is submitted to D&A's accounting department.

Reimbursable Expenses include, but are not limited to, the following:

Travel and lodging, including out of town transportation by D&A's vehicles at standard rates; mail, delivery, courier and express charges; legal and accounting fees (including attorney's fees charged by D&A's attorney for review or negotiation of any certificates or similar documents requested by Client or a lender doing business with Client); in-house reproduction costs (to be charged at prevailing commercial rates); subconsultants; photographs; environmental fees; late fees caused by Client; charges incurred in stopping or resuming work in accordance with this Agreement; use or rental of special equipment or instruments and other direct non-salary expenses necessary to complete the contract.



General Terms and Conditions

These General Terms and Conditions are a part of the letter proposal from Doucet & Associates, Inc. ("Doucet") to RPS North America, Inc. ("Client") and shall govern all services described in the letter proposal ("Basic Services") or any other services rendered by Engineer to Client ("Additional Services") (the Basic Services and Additional Services are referred to collectively as the "Services").

Article 1. Compensation

1.1 **Agreement to Hire.** Client hires Doucet to perform the Services on the Property described in the Letter Proposal (the "Property") pursuant to the terms of this Agreement. This Agreement is comprised of the Letter Proposal, Fee Schedule and these General Terms and Conditions. The term of the Agreement shall commence on the date Client signs the Letter Proposal and terminate on the date the Services are completed or the date this Agreement is otherwise terminated in accordance with its terms.

1.2 **Agreement to Pay.** Client agrees to pay Doucet for the Basic Services, Additional Services and Reimbursable Expenses in accordance with this Agreement. The charge for Additional Services shall be based on actual hours expended and quantities used. The amounts set forth in the Letter Proposal are estimates only and actual charges may vary. Doucet reserves the right to periodically adjust our fee schedule. In addition to all fees for services, Client agrees to pay all collection charges if Doucet is compelled to seek collection of the fees charged for Basic and Additional Services and Reimbursable Expenses through a collection agency or through an attorney. Collection charges includes all fees paid to any professional for collection of delinquent Fees, all court costs, travel expenses, and other costs incurred by Doucet in collection of delinquent fees and expenses due to Doucet under this Agreement.

1.3 **Change Orders.** Client, without invalidating this Agreement, may request changes to the scope of Services by altering or adding to the Services to be performed and any such changes shall be performed subject to this Agreement. Unless Doucet specifies otherwise, the charges for such changed Services shall be based on actual hours expended and quantities used in accordance with the Fee Schedule. Client, by requesting a change order, agrees to pay such additional or changed charges.

1.4 **Invoices.** Doucet will submit invoices to Client on a monthly basis or upon completion of the Services. Client agrees to pay Doucet upon receipt of invoice. Client agrees to pay a charge of 1.5% per month on all invoiced amounts after thirty days, retroactive to the date of invoice. Interest on unpaid invoices shall not exceed the maximum amount of interest allowed by law and any interest in excess of this amount shall be credited to unpaid invoices or, if they have been paid, refunded.

1.5 **Suspension of Work.** If Client does not pay any invoiced amount within thirty days from the date of invoice, or otherwise fails to perform any obligation under this Agreement, Doucet shall have the right, upon three days written notice to Client, to stop performance of the Services.

Article 2. Duties

2.1 **Access.** Client will provide Doucet with access to the Property or to any other site as required by Client for performance of the Services.

2.2 **Client-furnished Data.** Client will provide to Doucet all plans and other information in Client's possession that relates to Doucet's performance of the Services. This information will include known site hazards, location of utilities, prior surveys, plats, any hazardous materials in or around the site, location of underground structures or storage tanks. Client acknowledges that Doucet will rely on the accuracy, timeliness and completeness of the information provided by the Client or any of Client's contractors or consultants. Client agrees, to the fullest extent permitted by law, to waive all claims and causes of action against Doucet and to indemnify, and hold harmless Doucet, its directors, partners, employees and subcontractors from any damages, liabilities or costs, including attorneys' fees, experts' fees and defense costs, for any property damage, injury or economic loss arising or allegedly arising from inaccuracy of information provided to Doucet by the Client.

2.3 **Other Information.** Doucet will rely upon commonly used sources of data, including database searches and agency contacts. Doucet does not warrant the accuracy of the information obtained from those sources and has not been requested to independently verify such information.

2.4 **Permits.** Except as expressly provided in the Letter Proposal, Client is responsible for obtaining and complying with all required permits or other approvals of, and for giving any required notices to, all governmental and quasi-governmental authorities having jurisdiction over the Services or the Property. Upon request, Client will provide Doucet evidence satisfactory to Doucet that all required permits or other approvals have been obtained and that all required notices have been given, including copies of such permits or notices.

2.5 **Ownership of Documents.** All designs, drawings, engineering reports, specifications and other documents generated or produced during the term of this Agreement, whether in electronic form, print, or any other fixed media, are work product of Doucet and are the sole and exclusive property of Doucet. The work product of Doucet described in the preceding sentence is licensed to Client for the sole purposes of the Project, and may not be used by any third party for any purpose, nor by Client for any purpose other than as set out in this Agreement. Client may not modify, amend, change or alter any of Doucet's work product. If Client makes any modification, alteration, addition or change to Doucet's work product without the specific agreement of Doucet, any warranty issued by Doucet for work completed with the altered documents is withdrawn by Doucet. Client acknowledges and agrees that if it modifies, alters, or changes the Doucet work product without the consultation and written consent of Doucet that Doucet is relieved of any liability caused by that modification, change or alteration, and that Client will indemnify and hold Doucet harmless from any claims, lawsuits, damages, losses and causes of action asserted by any third party against Doucet, including costs of defense and attorneys fees.

2.6 **Lender Certificates.** In the event a third party, such as a lender or subsequent purchaser of the Property, seeks assignment of any instruments of service prepared by Doucet, or requests that Doucet make independent certifications in favor of such third party, then Doucet, as a condition to such assignment or certification may require: (a) payment in full of all outstanding charges then due from Client, (b) reimbursement for all costs and fees incurred by Doucet (including attorney's fees) in reviewing associated documents, (c) a reasonable administrative fee in an amount determined by Doucet, (d) reasonable time to review any associated documents, but no less than seven (7) days, (e) Doucet may limit its certification to such third party to a statement confirming that all certifications made on the instruments of service, if any, remain true and correct and (f) any other assurances reasonably determined by Doucet.

2.7 **Reporting Obligations.** Client has responsibility for complying with all legal reporting obligations, including but not limited to spill reporting. Nothing in the Agreement precludes Doucet from providing any notices or reports that it may be required by law to give to governmental entities.

2.8 **Environmental and Compliance with Laws.** Client represents to Doucet that the Property is and will remain in compliance with all environmental, health and safety laws, regulations and ordinances ("Laws"). Client is solely responsible for all matters relating to soils testing, other subsurface investigations, the presence and disposal of any hazardous materials in, under or around the Property, and any other environmental conditions of the Property and any structures located on the Property. Client is the owner of and has responsibility for any waste materials on the Property or generated in the performance of the Services, including samples collected for testing. Client agrees to indemnify and hold harmless Doucet, its officers, partners, employees, and subcontractors from all claims, damages, losses, and costs, including, but not limited to, litigation expenses and attorney's fees, arising out of or related to the presence of any hazardous materials, petroleum, asbestos or contaminants on the Property or the failure of the Property to comply with all Laws.

2.9 **Cooperation.** Client will fully cooperate with Doucet in the performance of this Agreement. Client is responsible for assuring that other contractors of Client cooperate with and do not interfere with Doucet's performance of the Services.

2.10 **Surveying.** Client understands that surveying, vehicles and other equipment may unavoidably cause some damage to the Property, including destruction of vegetation, the correction of which is not part of the Agreement.

2.11 **Changed Conditions.** The Client shall rely on Doucet's judgment as to the continued adequacy of the Agreement in light of occurrences or discoveries that were not originally contemplated by or known to Doucet. Should Doucet call for contract renegotiation, Doucet shall identify the changed conditions necessitating renegotiation and Doucet and the Client shall promptly and in good faith enter into renegotiation of this Agreement. If terms cannot be agreed to, the parties agree that either party has the right to terminate the Agreement.

2.12 **Opinions of Cost.** Should Doucet provide any cost opinions, it is understood that those opinions are based on the experience and judgment of Doucet and are merely opinions. Doucet does not warrant that actual costs will not vary from those opinions because, among other things, Doucet has no control over market conditions.

Article 3. Termination of Services

3.1 **Termination.** The Agreement may be terminated without cause at any time prior to completion of the Service by Client or Doucet upon seven (7) days written notice to the other party.

3.2 **Compensation in Event of Termination.** If the Agreement is terminated in accordance with Paragraph 3.1, Doucet shall be compensated for all Services performed prior to the termination date in accordance with the rates established in this Agreement, together with Reimbursable Expenses then due or incurred.



Article 4. Relationship of Parties

4.1 **Independent Contractor.** It is understood that the relationship of Doucet to Client shall be that of an independent contractor. Neither Doucet or employees of Doucet shall be deemed to be employees of Client. There are no third party beneficiaries to this Agreement.

Article 5. Limitation on Warranties and Liability

5.1 Doucet represents and warrants that the Services will be performed using that degree of care and skill customarily provided by an experienced professional organization providing similar services in the area during the same time period. **Doucet makes no other warranties or representations, whether express or implied, whether in this Agreement or any subsequent reports provided by Doucet.**

5.2 **Limitation of Liability.** TO THE FULLEST EXTENT PERMITTED BY LAW, THE TOTAL LIABILITY OF Doucet AND ITS SUBCONSULTANTS AND SUBCONTRACTORS TO CLIENT FOR ANY AND ALL INJURIES, CLAIMS, LOSSES, EXPENSES OR DAMAGES WHATSOEVER FROM ANY CAUSE OR CAUSES, INCLUDING, BUT NOT LIMITED TO, STRICT LIABILITY, BREACH OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE, OR ERRORS OR OMISSIONS (COLLECTIVELY "CLAIMS") SHALL NOT EXCEED \$50,000 OR Doucet's TOTAL FEE, WHICHEVER IS GREATER. IN NO EVENT WILL Doucet, ITS SUBCONSULTANTS OR SUBCONTRACTORS BE LIABLE FOR PUNITIVE, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES. CLIENT, AS A MATERIAL INDUCEMENT TO Doucet TO ENTER THIS AGREEMENT, WAIVES ALL CLAIMS AGAINST, FOREVER DISCHARGES AND PROMISES NOT TO SUE THE EMPLOYEES, OFFICERS AND DIRECTORS OF Doucet FOR ALL CLAIMS, EXCEPT INTENTIONAL TORTS OCCURRING OUTSIDE THE COURSE AND SCOPE OF THEIR EMPLOYMENT. CLIENT AGREES TO LOOK SOLELY TO Doucet FOR THE SATISFACTION OF ANY CLAIMS ARISING FROM OR RELATING TO THIS AGREEMENT THAT CLIENT WOULD OTHERWISE HAVE AGAINST THE EMPLOYEES, OFFICERS AND DIRECTORS OF Doucet ABSENT THE WAIVER SET FORTH ABOVE.

Article 6. Miscellaneous

6.1 **Entire Agreement.** The Agreement (including any exhibits) contains the entire agreement between Doucet and Client, and no oral statements or prior written matter shall be of any force or effect. The Agreement may be modified only by a written document executed by both parties.

6.2 **Governing Law.** The Agreement shall be governed by and construed in accordance with the laws of the State of Texas.

6.3 **Arbitration.** Any controversy or claim arising from or relating to this Agreement, the Services or any other agreement between the parties shall be settled by binding arbitration administered by the American Arbitration Association (AAA) under its commercial arbitration rules and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. The arbitration, and all hearings in relation thereto, shall be held in Travis County, Texas. The arbitration panel shall consist of a single arbitrator who is either a licensed engineer or has extensive experience in the field of engineering. All aspects of the arbitration shall be confidential. The arbitrator shall have no authority to award punitive damages. Notwithstanding the foregoing, in the event Doucet has a claim against Client for the collection of invoiced amounts then Doucet may bring such claim in the courts of Travis County, Texas and Client hereby irrevocably consents to venue and jurisdiction of the courts of Travis County for such claims. In the event Client asserts a counterclaim against Doucet, then Doucet shall have thirty (30) days from receipt of such counterclaim to commence arbitration, in which case the entire cause of action shall be stayed in the Courts and arbitrated in accordance with this paragraph, or if Doucet fails to commence arbitration within such thirty day period, the entire cause of action shall be litigated in the Courts of Travis County. Client acknowledges that all payments for the Services are due and payable in Travis County, Texas.

6.4 **Acceptance of Agreement.** If this Agreement is not executed by Client within 30 days of the date tendered, it shall become invalid unless: (1) Doucet extends the time in writing; or (2) Client orally authorizes Doucet to proceed with the work, in which event the terms of the oral authorization shall be presumed to include all the terms of this Agreement. Doucet's performance of work under the oral authorization shall be in reliance on the inclusion of all the terms of this Agreement in the oral authorization. A facsimile signature shall be effective to bind either party to this Agreement.

6.5 **Engineer Not Supervisor.** Unless specifically stated in the letter proposal defining the basic Services provided in this Agreement, Engineer has no responsibility or authority for the supervision of any phase of the work at the site of the Project, and no responsibility for the means, methods, techniques, sequences, and procedures used by the contractors and no responsibility for site safety. Doucet shall have no responsibility to assure or certify that construction on the Property or any activity not supervised by Doucet shall comply with applicable laws. Doucet shall have no responsibility for or liability in relation to any employees of Client or other contractors of Client on the Property.



6.6 **Indemnity.** Client shall indemnify, defend and hold harmless Doucet from and against any and all lawsuits, claims, liabilities, actions, causes of action, demands, losses, damages, forfeitures, penalties, fines, costs and expenses, including but not limited to, reasonable attorney's fees and expenses, by whomever asserted, including but not limited to, any government entity, agency or branch, any third party, an employee, contractor employed or retained by Doucet, any third party or employee employed or retained by Doucet, to the extent that such claim, property damage, injury or death resulted from (i) the negligence or willful misconduct of Client or an agent or contractor of Client, (ii) violation of federal, state or local statute, rule, regulation or ordinance by Client or an agent or contractor of Client, (iii) Client's alleged involvement or status as an owner, operator, arranger, generator or transporter of hazardous substances or constituents at the Property, (iv) any matter outside of Doucet's scope of Services or (v) inaccurate information provided by Client to Doucet.

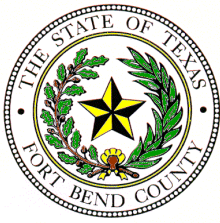
6.7 **Suspension of Work/Force Majeure.** Client may require Doucet to temporarily suspend work by delivery of written notice to Doucet. Doucet may also be required to suspend work due to circumstances beyond the control of Doucet, including but not limited to strike, fire, inclement weather (including excessive rain or heat), act of God, governmental action, third party actions, casualty or acts of Client. Client understands that the suspension of work by Doucet will cause Doucet to incur additional costs to suspend and resume work and Client agrees to reimburse Doucet for such additional costs and to extend Doucet's deadline for completion.

6.8 **No Assignment.** Client may not assign this Agreement without consent by Doucet.

6.9 **Interpretation.** The parties acknowledge that each party, and if it so chooses, its counsel have reviewed and revised the Agreement and that the normal rule or construction that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of the Agreement.

6.10 **Survival.** Termination of the Services for any reason whatsoever shall not affect the right or obligation of any party that is accrued or vested prior to such termination, and any provision of the Agreement relating to such right or obligation shall be deemed to survive such termination of the Services or any continuing obligation, liability or responsibility of Doucet or Client which would otherwise survive termination of the Services.

6.11 **Contractual Lien to Secure Payment:** Client hereby grants to Doucet a contractual lien in addition to all constitutional, statutory and equitable liens that may exist on the Property and all improvements thereon, to secure payment for all debts owed, now or in the future, to Doucet by Client including those arising as a result of Doucet's services provided in accordance with this Agreement or any other agreement between Client and Doucet. Client grants Doucet the authority and right to file a copy of this Agreement in the Deed Records of the county or counties where the above project is located to give notice of Doucet's lien rights.



Fort Bend County Engineering
FORT BEND COUNTY, TEXAS

J. Stacy Slawinski, P.E.
County Engineer

MEMORANDUM

September 27, 2021

TO: Members of the Commissioners Court

**RE: RPS – Agreement
Trammel Fresno at California, 20221x**

The total cost of the Amendment is \$42,400. The funding will be transferred from the following projects:

Project No.	Project Name	Amount
20203	Bates Lane	\$42,400
Project Management Fee		\$42,400