



the Agreement is hereby increased to an amount not to exceed \$159,605.40, authorized as follows:

\$99,598.40 under the Agreement; and

\$60,007.00 under this Amendment to the Agreement

In no case shall the amount paid by County for all product and/or services under the Agreement and this Amendment to the Agreement exceed the above Limit of Appropriation without an agreement executed by the parties.

3. **Certain State Law Requirements for Contracts.** The contents of this Section are required by Texas Law and are included by County regardless of content. For purposes of Sections 2252.152, 2271.002, and 2274.002, Texas Government Code, as amended, CobbFendley hereby verifies that CobbFendley and any parent company, wholly owned subsidiary, majority-owned subsidiary, and affiliate:
  - a. Unless affirmatively declared by the United States government to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization, is not identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 806.051, 807.051, or 2252.153 of the Texas Government Code.
  - b. If employing ten (10) or more full-time employees and this Agreement has a value of \$100,000.00 or more, CobbFendley does not boycott Israel and is authorized to agree in such contracts not to boycott Israel during the term of such contracts. "Boycott Israel" has the meaning provided in § 808.001 of the Texas Government Code.
  - c. If employing ten (10) or more full-time employees and this Agreement has a value of \$100,000.00 or more, CobbFendley does not boycott energy companies and is authorized to agree in such contracts not to boycott energy companies during the term of such contracts. "Boycott energy company" has the meaning provided in § 809.001 of the Texas Government Code.
  - d. If employing ten (10) or more full-time employees and this Agreement has a value of \$100,000.00 or more, CobbFendley does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and is authorized to agree in such contracts not to discriminate against a firearm entity or firearm trade association during the term of such contracts. "Discriminate against a firearm entity or firearm trade association" has the meaning provided in § 2274.001(3) of the Texas Government Code. "Firearm entity" and "firearm trade association" have the meanings provided in § 2274.001(6) and (7) of the Texas Government Code.
4. **Grant Funding.** CobbFendley understands that and acknowledges that this Agreement may be totally or partially funded with federal funds. CobbFendley represents and warrants that it is and will remain in compliance with all applicable federal provisions, including those attached as Exhibit "3" attached hereto and incorporated herein for all purposes.
5. **Remote Access.** As applicable, if CobbFendley requires remote access to County Systems for support, installation, integrations, configurations, maintenance, and/or provision of services, except as otherwise agreed by the parties and approved by the County's Director of Information Technology and Chief Information Officer in writing, the below requirements must be met before CobbFendley is granted remote access to County Systems:

- a. CobbFendley will adhere to the restricted and monitored channels that are provided by the County, or other technologies approved in advanced in writing by the County's Director of Information Technology and Chief Information Officer.
  - b. CobbFendley will neither implement nor deploy a remote access solution which bypasses and/or is designed to bypass County provided or approved controls. CobbFendley will not access County Systems via unauthorized methods.
  - c. CobbFendley's remote access to County Systems will only be requested and activated on as-needed basis and disabled when not in use.
  - d. Remote access is restricted only to County Systems necessary for CobbFendley to provide product and/or services to County pursuant to this Agreement.
  - e. CobbFendley will allow only its Workforce approved in advance by County to access County Systems. CobbFendley will promptly notify County whenever an individual member of CobbFendley's Workforce who has access to County Systems leaves its employ or no longer requires access to County Systems. CobbFendley will keep a log of access when its Workforce remotely accesses County Systems. CobbFendley will supply County with evidence of access logs concerning remote access to County Systems upon written request from County. Such access logs will be provided to County, within three business days from the date of County's request. These requests may be used to confirm compliance with these terms and/or to investigate a security incident.
  - f. If any member(s) of CobbFendley's Workforce is provided with remote access to County Systems, then CobbFendley's Workforce will not remotely log-in to County Systems from a public internet access device (e.g., airport computer terminal, or Internet café). This is due to the possibility of sensitive information being monitored by video or computer surveillance in public areas.
  - g. Failure of CobbFendley to comply with this Section may result in CobbFendley and/or CobbFendley's Workforce losing remote access to County Systems. County reserves the right at any time to disable remote access to protect County Systems.
  - h. For purposes of this Section, "Workforce" means employees, agents, subcontractors (where permitted), and/or other persons whose conduct, in the performance of work for CobbFendley, is under the direct control of CobbFendley, whether or not they are paid by CobbFendley and who have direct or incidental access to County Systems.
  - i. For purposes of this Section, "Systems" means any: (i.) computer programs, including, but not limited to, software, firmware, application programs, operating systems, files and utilities; (ii.) supporting documentation for such computer programs, including, without limitation, input and output formats, program listings, narrative descriptions and operating instructions; (iii.) data and/or media; (iv.) equipment, hardware, servers, and/or devices; and/or (v.) network(s).
6. **Modifications.** Except as modified herein, the Agreement remains in full force and effect and has not been modified or amended.
  7. **Conflict.** If there is a conflict among documents, the most recently executed document will prevail with regard to the conflict.
  8. **Understanding, Fair Construction.** By execution of this Amendment, the parties acknowledge that they have read and understood each provision, term and obligation contained in this Amendment. This Amendment, although drawn by one party, shall

be construed fairly and reasonably and not more strictly against the drafting party than the nondrafting party.

9. **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.

(Execution Page Follows)

(Remainder of Page Intentionally Left Blank)

IN WITNESS WHEREOF, this Amendment is signed, accepted, and agreed to by all parties by and through the parties or their agents or authorized representatives. All parties hereby acknowledge that they have read and understood this Amendment and the attachments and exhibits hereto. All parties further acknowledge that they have executed this legal document voluntarily and of their own free will. This Amendment is effective upon execution of all parties.

**FORT BEND COUNTY**

**COBB, FENDLEY & ASSOCIATES, INC.**

\_\_\_\_\_  
KP George, County Judge

*Diana C. Ward*  
\_\_\_\_\_  
Authorized Agent – Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Diana C. Ward, P.E.  
\_\_\_\_\_  
Authorized Agent- Printed Name  
Utility Coordination Department Manager | Vice President

ATTEST:

\_\_\_\_\_  
Title

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

\_\_\_\_\_  
09/21/2022  
\_\_\_\_\_  
Date

REVIEWED:

*Robyn Doughtie*  
\_\_\_\_\_  
Information Technology Office

**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 Agreement.

\_\_\_\_\_  
Robert Ed Sturdivant, County Auditor

- Exhibit 1: Addendum to Cobb, Fendley & Associates, Inc.’s Agreement, executed by the parties on or about September 7, 2021;
- Exhibit 2: CobbFendley’s proposal for services, dated September 19, 2022; and
- Exhibit 3: Federal Clauses

# EXHIBIT 1

STATE OF TEXAS                   §  
   §  
 COUNTY OF FORT BEND         §

**ADDENDUM TO COBB, FENDLEY & ASSOCIATES, INC.'S AGREEMENT**

THIS ADDENDUM ("Addendum") is entered into by and between Fort Bend County, ("County"), a body corporate and politic under the laws of the State of Texas, and Cobb, Fendley & Associates, Inc., ("CobbFendley"), a company authorized to conduct business in the State of Texas (hereinafter collectively referred to as the "parties").

WHEREAS, subject to the changes herein, the parties have executed and accepted CobbFendley's Broadband Network Feasibility Study Scope of Work, and Fee Estimate, (collectively the "Agreement"), attached hereto as Exhibit "A" and incorporated fully by reference, for the purchase of specified services concerning a Broadband Network Feasibility Study (the "Services"); 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, County desires that CobbFendley provide Services as will be more specifically described in this Agreement; and

WHEREAS, CobbFendley represents that it is qualified and desires to perform such Services; and

WHEREAS, the following changes are incorporated as if a part of the Agreement:

AGREEMENT

1. **Scope of Services.** Subject to this Addendum, CobbFendley will render Services to County as described in Exhibit A. The Services shall be scheduled at a time that is mutually agreeable between the parties but without reasonable delay.
2. **Payment; Non-appropriation; Taxes.** Payment shall be made by County within thirty (30) days of receipt of invoice. It is specifically understood and agreed that in the event no funds or insufficient funds are appropriated by Fort Bend County under this Agreement, Fort Bend County shall notify all necessary parties that this Agreement shall thereafter terminate and be null and void on the last day of the fiscal period for which appropriations were made without penalty, liability or expense to Fort Bend County. County is a body corporate and politic under the laws of the State of Texas and claims exemption from sales and use taxes. A copy of a tax-exempt certificate will be furnished upon request. Interest resulting from late payments by County shall be governed by Chapter 2251, TEXAS GOVERNMENT CODE. County reserves the right to withhold payment pending verification of satisfactory work performed.

3. **Limit of Appropriation.** CobbFendley 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 Ninety-Nine Thousand, Five Hundred Ninety-Eight and 40/100 dollars (\$99,598.40), specifically allocated to fully discharge any and all liabilities County may incur. CobbFendley does further understand and agree, said understanding and agreement also being of the absolute essence of this Agreement, that the total maximum compensation that CobbFendley may become entitled to and the total maximum sum that County may become liable to pay to CobbFendley shall not under any conditions, circumstances, or interpretations thereof exceed Ninety-Nine Thousand, Five Hundred Ninety-Eight and 40/100 dollars (\$99,598.40). In no event will the amount paid by the County for all services under this Agreement exceed this Limit of Appropriation without an amendment executed by the parties.
4. **Public Information Act.** CobbFendley 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 CobbFendley 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. The terms and conditions of the Agreement are not proprietary or confidential information.
5. **Indemnity.** The parties agree that under the Constitution and laws of the State of Texas, County cannot enter into an agreement whereby County agrees to indemnify or hold harmless another party; therefore, all references of any kind to County defending, indemnifying, holding or saving harmless CobbFendley for any reason are hereby deleted. CobbFendley shall indemnify and defend County against all losses, liabilities, claims, causes of action, and other expenses, including reasonable attorney's fees, arising from activities of CobbFendley, its agents, servants or employees, performed under this agreement that result from the negligent act, error, or omission of CobbFendley or any of CobbFendley's agents, servants or employees.
6. **Applicable Law; Arbitration; Attorney Fees.** 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. County does not agree to submit disputes arising out of the Agreement to binding arbitration. Therefore, any references to binding arbitration or the waiver of a right to litigate a dispute are hereby deleted. County does not agree to pay any and/or all attorney fees incurred by CobbFendley in any way associated with the Agreement.

7. **Certain State Law Requirements for Contracts.** The contents of this Section are required by Texas Law and are included by County regardless of content.
- a. Agreement to Not Boycott Israel Chapter 2271 Texas Government Code: By signature below, CobbFendley verifies that if CobbFendley employs ten (10) or more full-time employees and this Agreement has a value of \$100,000 or more, CobbFendley does not boycott Israel and will not boycott Israel during the term of this Agreement.
  - b. Texas Government Code § 2252.152 Acknowledgment: By signature below, CobbFendley represents pursuant to § 2252.152 of the Texas Government Code, that CobbFendley is not listed on the website of the Comptroller of the State of Texas concerning the listing of companies that are identified under § 806.051, § 807.051, or § 2252.153.
8. **Modifications and Waivers.** The parties may not amend or waive this Agreement, except by a written agreement executed by both parties. 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. 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. No other provisions to this Agreement apply except for the terms which appear in this Addendum and the Exhibits.
9. **Human Trafficking.** BY ACCEPTANCE OF CONTRACT, COBBFENDLEY ACKNOWLEDGES THAT FORT BEND 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.
10. **Use of Customer Name.** CobbFendley may use County's name without County's prior written consent only in any of CobbFendley's customer lists, any other use must be approved in advance by County.
11. **Performance Warranty.** CobbFendley warrants to County that CobbFendley has the skill and knowledge ordinarily possessed by well-informed members of its trade or profession practicing in the greater Houston metropolitan area and CobbFendley will apply that skill and knowledge with care and diligence to ensure that the services provided hereunder will be performed and delivered in accordance with professional standards.
- CobbFendley warrants to County that any Services performed hereunder failing to satisfy CobbFendley's standard of care will be promptly corrected or performed at no cost to County.
12. **Conflict.** In the event there is a conflict between this Addendum and the Agreement, this Addendum controls.
13. **Understanding, Fair Construction.** By execution of this Addendum, the parties acknowledge that they have read and understood each provision, term and obligation contained in this Addendum. This Addendum, although drawn by one party, shall be construed fairly and reasonably and not more strictly against the drafting party than the nondrafting party.

14. **Inspection of Books and Records.** CobbFendley will permit County, or any duly authorized agent of County, to inspect and examine the books and records of CobbFendley 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 (4) years.
15. **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.
16. **Electronic and Digital Signatures.** The parties to this Agreement agree that any electronic and/or digital signatures of the parties included in this Agreement are intended to authenticate this writing and to have the same force and effect as the use of manual signatures.
17. **Assignment and Delegation.**
  - 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.
  - 17.4. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of the County.
18. **Successors and Assigns.** County and CobbFendley 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.
19. **Ownership and Reuse of Documents.** All documents, data, reports, research, graphic presentation materials, etc., developed by CobbFendley 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 § 2 for work performed. CobbFendley shall promptly furnish all such data and material to County on request.
20. **Personnel.** CobbFendley represents that it presently has, or is able to obtain, adequate qualified personnel in its employment for the timely performance of the Services required under this Agreement and that CobbFendley shall furnish and maintain, at its own expense, adequate and sufficient personnel, in the opinion of County, to perform the Services when and as required and without delays.

All employees of CobbFendley shall have such knowledge and experience as will enable them to perform the duties assigned to them. Any employee of CobbFendley or agent of CobbFendley who, in the opinion of County, is incompetent or by his conduct becomes detrimental to providing Services pursuant to this Agreement shall, upon request of County, immediately be removed from association with the Services required under this Agreement.

21. **Compliance with Laws.** CobbFendley 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, CobbFendley shall furnish County with certification of compliance with said laws, statutes, ordinances, rules, regulations, orders, and decrees above specified.
22. **Confidential Information.** CobbFendley 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 CobbFendley 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 CobbFendley 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 CobbFendley) publicly known or is contained in a publicly available document; (b) is rightfully in CobbFendley'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 CobbFendley who can be shown to have had no access to the Confidential Information.

CobbFendley agrees to hold Confidential Information in strict confidence, using at least the same degree of care that CobbFendley 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. CobbFendley 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, CobbFendley shall advise County immediately in the event CobbFendley 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 CobbFendley will at its expense cooperate with County in seeking injunctive or other equitable relief in the name of County or CobbFendley against any such person. CobbFendley agrees that, except as directed by County, CobbFendley 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, CobbFendley will promptly turn

over to County all documents, papers, and other matter in CobbFendley's possession which embody Confidential Information.

CobbFendley 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. CobbFendley 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.

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

### **23. Termination.**

- 23.1. Termination for Convenience. County may terminate this Agreement at any time upon thirty (30) days written notice.
- 23.2. Termination for Default. County may terminate the whole or any part of this Agreement for cause in the following circumstances:
  - (a). If CobbFendley fails to timely perform services pursuant to this Agreement or any extension thereof granted by the County in writing;
  - (b). If CobbFendley 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.
- 23.3. If, after termination, it is determined for any reason whatsoever that CobbFendley 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 § 23.1 above.
- 23.4. Upon termination of this Agreement, County shall compensate CobbFendley in accordance with § 2, above, for those services which were provided under this Agreement prior to its termination and which have not been previously invoiced to County. CobbFendley's final invoice for said services will be presented to and paid by County in the same manner set forth in § 2 above.
- 23.5. 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 CobbFendley.

- 23.6. If County terminates this Agreement prior to the termination date, County shall not be subject to any early termination fee or other penalty.
24. **Independent Contractor.** In the performance of work or services hereunder, CobbFendley 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 CobbFendley or, where permitted, of its subcontractors. CobbFendley 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.
25. **Third Party Beneficiaries.** This Agreement does not confer any enforceable rights or remedies upon any person other than the parties.
26. **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.
27. **Dispute Resolution.**
- 27.1. 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 non-binding mediation.
- 27.2. 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.
- 27.3. Each party shall be responsible for its own costs associated with the mediation.
- 27.4. 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.
- 27.5. CobbFendley acknowledges that County is subject to the requirements of the Texas Open Meetings Act, TEX. GOV'T CODE ANN. §§ 551.001 *et seq.*, as amended, and notwithstanding any provision in the Agreement to the contrary, the County will comply with the provisions of the Open Meetings Act.
28. **Grant Funding.** CobbFendley understands that and acknowledges that this Agreement may be totally or partially funded with federal funds. CobbFendley represents and warrants that it is and will remain in compliance with all applicable federal provisions, including those attached as Exhibit "B" attached hereto and incorporated herein for all purposes.

29. **Insurance.** Prior to commencement of the Services under this Agreement, CobbFendley 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. CobbFendley shall provide certified copies of insurance endorsements and/or policies if requested by County. CobbFendley 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. CobbFendley 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:

- (a). 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.
- (b). 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.
- (c). 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.
- (d). Professional Liability insurance with limits not less than \$1,000,000.

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 CobbFendley shall contain a waiver of subrogation in favor of County and members of Commissioners Court.

If required coverage is written on a claims-made basis, CobbFendley 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 two years beginning from the time that work under the Agreement is completed.

Certificates of Insurance and Additional Insured Endorsements as required by this Agreement will be mailed, or faxed to the following County contact:

Name: Wyatt Scott, Director of Risk Management  
 Address: 301 Jackson St., Suite 224, Richmond, TX 77469  
 Facsimile Number: 281-341-3751

30. **Notices.**

30.1. 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).

- 30.2. 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 Information Technology Department  
Attn: Information Technology Director  
500 Liberty Street  
Richmond, Texas 77469

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

Contractor: Cobb, Fendley & Associates, Inc.  
13430 Northwest Freeway, Suite 1100  
Houston, Texas 77040

- 30.3. A Notice is effective only if the party giving or making the Notice has complied with subsections 30.1 and 30.2 and if the addressee has received the Notice. A Notice is deemed received as follows:

30.3.1. 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.

30.3.2. 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.

(Execution Page Follows)

(Remainder of Page Intentionally Left Blank)

IN WITNESS WHEREOF, this Addendum is signed, accepted, and agreed to by all parties by and through the parties or their agents or authorized representatives. All parties hereby acknowledge that they have read and understood this Addendum and the attachments and exhibits hereto. All parties further acknowledge that they have executed this legal document voluntarily and of their own free will. This Agreement is effective upon execution by both parties.

FORT BEND COUNTY

KP George  
KP George, County Judge  
County Judge KP George

COBB, FENDLEY & ASSOCIATES, INC.

Vineeta Ram  
Authorized Agent – Signature

9.7.2021  
Date



ATTEST

Laura Richard  
Laura Richard, County Clerk

Vineeta Ram, P.E.  
Authorized Agent- Printed Name

Executive Vice President  
Title

08/19/2021  
Date

REVIEWED:

Robyn Douglass  
Information Technology Department

AUDITOR'S CERTIFICATE

I hereby certify that funds in the amount of \$ 99,598.40 are available to pay the obligation of Fort Bend County within the foregoing Agreement.

Robert Ed Sturdivant  
Robert Ed Sturdivant, County Auditor

- Exhibit A: CobbFendley's Broadband Network Feasibility Study Scope of Work, and Fee Estimate; and
- Exhibit B: Federal Clauses

# Exhibit A

# Broadband Network Feasibility Study Scope of Work

## Contents:

1. Broadband Initiative and Overarching Scope
2. Feasibility Study Scope of Work
3. Deliverables
4. Schedule



**July 1, 2021**



## Broadband Initiative and Overarching Scope

Fort Bend County has engaged CobbFendley for preliminary engineering services for a feasibility study for the broadband network implementation, accounting for the connectivity of the county assets and Local Partners with goals for broadband infrastructure expansion for underserved, marginalized, and adversely affected groups within the County. At the end of this feasibility study, multiple options will be presented for the County's consideration to engage in the development and implementation of a comprehensive plan to bridge the Digital Divide in the community and provide communication access to government entities and partners as well as underserved communities.

Broadband is a critical service for health and safety, quality of life, and economic development. As the Fort Bend County plans for future, the need to address the Digital Divide has become apparent as it impacts almost every aspect of community life. Every home, business, nonprofit organization, government entity, and education institution should have the opportunity to connect affordably, easily, and securely. Access to quality education, economic and workforce development, health care options, municipal services, and other activities are dependent on having a fast, reliable, and secure broadband connection. The outcome of this study will be focused on closing gaps, reaching universal level of service for all.



## **Feasibility Study Scope of Work**

CobbFendley will provide the following Scope of Work regarding the research and development of a Broadband Network Feasibility Study. The work will be performed in two Phases. We will identify and access the problems, brief the County of our findings, collect feedback, and collaborate on strategy development. Additionally, we will develop and provide a range of options for broadband network design and determine deployment strategy. Special emphasis will be given to an open access model, which encourages internet service providers (ISPs) to expand into areas they would otherwise avoid due to the poor return of investment when building to low density areas. In an open access model, ISPs are encouraged to lease the open access network and reduce their build to the last mile infrastructure, delivering internet services to underserved communities. CobbFendley will work with the county in determining the most appropriate business model and guidance on the various ownership scenarios and associated pros and cons.

### **Phase I Scope of Work:**

#### *Task No. 1 - Needs and Gap Analysis*

##### **1.1 Reaching Out to Stakeholders**

The CobbFendley Team will identify all the key stakeholders in the community and ensure that they are included in the process from the very beginning. Public outreach will be accomplished through individual or group meetings and should include representatives from schools, the library system, public safety agencies, the health care and business communities, active community groups, elected officials and others. This outreach is critical to uncover potential assets and financial resources and to gauge the current and future needs of the community.

##### **1.2 Understanding the Existing Infrastructure**

CobbFendley will research and review the existing communications infrastructure within the county, including all existing wireline and wireless network assets, technologies and service tiers, and potential broadband expansion by incumbent providers. In this phase, we will create a high-level snapshot of existing assets based on available and obtained records.

Our team will collect and review all broadband coverage, capacity, and adoption data to identify communities and areas within the county which are lacking in adequate Broadband access. These areas will shape the network design as to facilitate and prioritize investment on routes that provide the most under/unserved homes/businesses passed. The County's goal is to provide support required to bring more service providers into the county for internet access to every resident at reasonable cost with increase in competition by implementing a broadband network infrastructure that -while connecting government entities- benefits underserved communities through construction of the core of the network. This ultimately encourages internet service providers to invest in mid- to last mile construction to serve the underserved communities.



### **1.3 Conducting Market Research**

The County currently has more than one existing internet service provider. While the main emphasis is on bridging the broadband connectivity gaps for businesses, organizations and public entities and spaces, we will conduct market research by randomly surveying 10% of the residents/businesses in underserved communities to understand their broadband connectivity challenges. The data gathered through this research is critical for understanding the necessity to consider some/all underserved communities in the conceptual design of the network backhaul.

A comprehensive assessment report will be provided at the conclusion of Task 1, along with an asset inventory map of public and private broadband infrastructure asset in the community. The asset map will be developed utilizing CobbFendley's Broadband Asset Management System (BAMS). We can assist County GIS team to integrate all our finding into County's GIS system

#### *Task No. 2 - Strategic Plan Development*

The CobbFendley Team will consolidate and present findings from Task 1 to the County for review and discussion. We will answer questions and gather input from the County and local partners to identify any missing data necessary for the creation of a Strategic Plan which includes review of Network Model and Design Methodology

### **2.1 Determining a Model and Network Layout**

Our team will apply all the data gathered in this process to actively explore different network architectures, topologies, and technologies for potential network design. One of our primary goals in the study is to be technology and ISP neutral or agnostic, so that we may present all possible options and alternatives when it comes to network and business modeling. This approach allows us to focus on the gap analysis and determination of needs within the community, which will ultimately shape our recommendations to address digital equity and cumulative community growth. All communications technologies will be explored, to include but not limited to fiber optics (Metro/Carrier Ethernet, GPON, XGS-PON), fixed wireless (Private 5G, CBRS, LTE), satellite (LEO and MEO). The proposed solution will consider scalability and futureproofing of the network so that a cost-effective converged solution may be realized.

### **2.2 Network Design Methodology**

Our team will develop design methodologies as a part of the strategic plan to build broadband infrastructure to include, outside plant (OSP), inside plant (ISP), and network implementation. The design methodology will consider economic and social resiliency during natural disasters and local, state, or federal emergency events. We will assess the feasibility of using municipal rights-of-way, fiber infrastructure, pole lines, and other assets for the County to provide broadband service throughout the community, as an individual entity or in partnership with other governmental entities and/or the private sector. We will also provide guidance regarding the best approach for a phased-in build out of the envisioned network facilities.



Task 2 will end with the development of a network diagram and a conceptual network design strategy. This network design should include catered solutions for connectivity to all identified and potential end customers within the county. While the ISPs will ultimately provide last mile connections, the proposed backhaul and middle mile infrastructure must consider the capacity requirements of a fully connected community. When implemented, this network will facilitate ISPs in serving underserved communities.

### *Task No. 3 – Alternatives Analysis for Broadband Network Design*

#### **3.1 Option and Alternatives Development**

The CobbFendley Team will provide several options and alternatives for the County to consider on how to proceed with implementing its broadband network build plans. Each option will include cost estimates and business models for recommended networks. A thorough cost analysis will provide critical information to include network capital expenditure estimates and financial forecasts.

#### **3.2 Cost-Benefit Analysis**

We will perform a cost analysis of procurement options for material and labor of construction and maintenance. Recommended partnership and ownership models will be included in this analysis.

Finally, we will provide an analysis and guidance on recommended Broadband deployment options available to the county. We will also prepare a county resource plan for implementation and operation phases.

#### **3.3 Community Impact Matrix**

Our combined analyses will be used in development of a Community Impact Matrix (), which will provide deep insight at to the socio-economic impact of the network on the county and its communities. Based on the analysis, our experience, and best practices, we will provide recommendations regarding feasibility and sustainability.

### *Task No. 4 - Broadband Deployment Strategy*

#### **4.1 High Level Network Engineering Design and Standards**

Our Team will develop a high-level network engineering design, revised financial costs and business model for the Broadband Network Design solution selected in Task 3. We will develop technical standards and network requirements for deployment throughout the region and a projected engineering and construction schedule for the project.

#### **4.2 Funding Research**

CobbFendley's Team will identify and pursue funding sources in support of this project. In addition to finding federal and state funding, we will also investigate other funding methods to include:

- American Rescue Plan Act Funding
- Public-Private Partnerships (P3)
- Grants (Local, State, Regional, Federal)
- Performance-Based Model
- Monetization of Data (with Privacy Protection Standards)
- Pilot-to-Procurement



- Potential for New Funding Opportunities Post-Pandemic

Finally, we will brief the County and local partners on the overall Feasibility Study Results and consult on the next steps.

***Phase II: Recommended Services*** (More detailed scope for Phase II to be provided later)

- Detailed Engineering Design and Permitting
  - OSP/ISP Design
  - Jurisdictional Permitting
  - Regulatory Compliance & Environmental Assessments
  - Pole Inventory and Structural Analysis
  - Wireless network design
- Construction Management

**Deliverables**

For the Duration of the Contract:

- Weekly Touchpoint and Progress Meetings

Milestone Deliverables:

- Kick Off Meeting
- Assessment Review/Report
  - Stakeholder Interviews
  - Market Research Results
  - ISP Considerations
- Asset Inventory Map (GIS/PDF)
- Strategic Plan
  - Network Diagram
  - Conceptual Network Design Strategy
- Financial Costs and Business Model Report
- Fiber Network Alternatives Impact Matrix
- Feasibility Study Results
  - High Level Network Engineering Design
  - Network Deployment Standards and Requirements

**Projected Engineering and Construction Schedule**

CobbFendley will provide Fort Bent County with a detailed schedule for detailed design, permitting, and construction of the broadband network that is selected as a result of this study and follow-up discussions with the county.

# FortBend County Broadband Feasibility Study

Exhibit C-Fee Estimate

PRELIMINARY FEE ESTIMATE

Deliverable or Task	Project Team											Other	Total
	Principal In Charge	PM IV	PM II	Sr. Eng. I	Eng. II	Tech. III (GIS)	Project Coordinator	Clerical	Sr. Tech. III (GIS)	Eng. I (Telecom)	Independents		
	\$ 299,000	\$ 242,000	\$ 201,000	\$ 201,000	\$ 155,000	\$ 103,000	\$ 112,000	\$ 82,000	\$ 170,000	\$ 129,000	\$ 200,000		
<b>Phase I: Preliminary Network Study</b>	<b>34</b>	<b>34</b>	<b>80</b>	<b>48</b>	<b>64</b>	<b>52</b>	<b>26</b>	<b>47</b>	<b>38</b>	<b>80</b>	<b>38</b>	<b>38</b>	<b>\$ 90,544.00</b>
1.0 Existing Infrastructure Identification and Assessment	12	12	24	16	16	16	12	40	16	16	10	10	\$ 30,068.00
1.1 Reaching Out to Stakeholders	10	10	8	8	8		8	8	8	8	8	8	\$ 15,410.00
1.2 Understanding the Existing Infrastructure	1	1	8	4	4	16	2	16	8	4	2	2	\$ 9,033.00
1.3 Regulatory & Jurisdictional Research	1	1	8	4	4		2	16	8	4			\$ 5,625.00
2.0 Strategic Plan Development	2	2	16	8	8	4	4	2	2	8	8	8	\$ 11,142.00
2.1 Determining a Model and Network Layout	1	1	8	4	4	2	2	1	1	4	4	4	\$ 5,571.00
2.2 Network Design	1	1	8	4	4	2	2	1	1	4	4	4	\$ 5,571.00
3.0 Alternatives Analysis for the Fiber Optic Network Design	16	16	32	16	16		8	4		16	20	20	\$ 28,072.00
3.1 Option and Alternatives Development	8	8	16	8	8		4	2		8	16	16	\$ 15,236.00
3.2 Cost-Benefit Analysis	4	4	8	4	4		2	1		4	4	4	\$ 6,018.00
3.3 Benefit Impact Matrix	4	4	8	4	4		2	1		4	4	4	\$ 6,818.00
4.0 Fiber Optic Network Deployment Strategy	4	4	8	8	24	32	2	1	20	40	0	0	\$ 21,262.00
4.1 High Level Network Engineering Design and Standards	4	4	8	8	24	32	2	1	20	40			\$ 21,262.00
<b>Total Engineering</b>													<b>\$ 90,544.00</b>
<b>Expenses</b>													<b>\$ 9,054.40</b>
<b>Total Cost Estimate</b>													<b>\$ 99,598.40</b>

# Exhibit B

## REQUIRED CONTRACT PROVISIONS FOR CONTRACTS UNDER FEDERAL AWARDS

Cobb, Fendley & Associates, Inc. (hereinafter “Contractor”) understands and acknowledges that this Agreement may be totally or partially funded with federal and or state funds. As a condition of receiving these funds, Contractor represents that it is and will remain in compliance with all federal and or state terms as stated below. These terms flow down to all third party contractors and their subcontracts at every tier that exceed the simplified acquisition threshold, unless a particular award term or condition specifically indicates otherwise. The Contractor shall require that these clauses shall be included in each covered transaction at any tier.

### 1. Remedies and Breach.

Contracts for more than the simplified acquisition threshold currently set by the County at \$50,000 must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

### 2. Termination.

All contracts in excess of \$10,000 must address termination for cause and for convenience by the Contractor including the manner by which it will be effected and the basis for settlement.

### 3. Rights to Inventions under a Contract or Agreement.

Contractor acknowledges that the federal government reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and authorize others to use (in whole or in part, including in connection with derivative works), for state (or Federal) purposes. Contractor will comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms under Government Grants, Contracts and Cooperative Agreements”.

### 4. Government-wide Debarment and Suspension.

The Contractor shall comply and facilitate compliance with the U.S. Office of Management and Budget (U.S. OMB) “Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” 2 C.F.R. part 180. A contract award in any tier must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 C.F.R. § 180 that implement Executive Orders Nos. 12549 (3 C F R part 1986 Comp., p. 189) and 12689 (3 C.F.R. part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order No. 12549. These provisions apply to each contract at any tier of \$25,000 or more, and to each contract at any tier for a federally required audit (irrespective of the contract amount).

This certification is a material representation of fact relied upon by the County. If it is later

determined that the Contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to County, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

Contractor agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, 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.

#### 5. Procurement of Recovered Materials.

The Contractor agrees to provide a preference for those products and services that conserve natural resources, protect the environment, and are energy efficient by complying with and facilitating compliance with Section 6002 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6962, and U.S. Environmental Protection Agency (U.S. EPA), “Comprehensive Procurement Guideline for Products Containing Recovered Materials,” 40 C.F.R. part 247.

#### 6. Prohibited Telecommunications and Video Surveillance Services and Equipment.

Contractor understands and acknowledges that under 2 CFR 200.216, the County is prohibited from using federal funds to procure, obtain, extend or renew a contract to procure or obtain covered telecommunications equipment or services, including telecom equipment produced by Huawei Technologies Company or ZTE Corp. (or subsidiaries or affiliates of such entities).

Contractor, therefore, certifies that they are in compliance with the [John S. McCain National Defense Authorization Act for Fiscal Year 2019 \(FY 2019 NDAA\)](#), Pub. L. No. 115-232 (2018), and that in the performance of this agreement, it will not provide equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in [Public Law 115-232](#), section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any [subsidiary](#) or affiliate of such entities).

- (i) For the purpose of public safety, security of Government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities);
- (ii) Telecommunications or video surveillance services provided by such entities or using such equipment; or
- (iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the People’s Republic of China.

7. Domestic Preferences for Procurements.

As appropriate and to the extent consistent with law, Contractor shall to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products procured with federal funds. For purposes of this clause, (1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States. (2) "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

# EXHIBIT 2

**To:** Robyn Doughtie  
Director of Information Technology and Chief Information Officer  
Fort Bend County  
301 Jackson St  
Richmond, TX 77469

**From:** CobbFendley – Jarod Branstetter, P.E.

**Date:** September 19, 2022

**Re:** Phase II Broadband Preliminary Engineering and Implementation Consulting

## **1 INTRODUCTION/ BACKGROUND**

Dear Ms. Doughtie,

Cobb, Fendley & Associates, Inc. (“CobbFendley”) is pleased to submit this proposal for engineering services to assist Fort Bend County (“Client”) with Phase II engineering consulting, preliminary engineering of the High-Level Design (HLD) and technical assistance towards the selection of potential broadband partner(s). Technical assistance will be provided for working with providers and partners to determine optimal build out and structure public/private partnerships (PPP) in order to apply for funding for implementation. The HLD will be accompanied by updated cost estimates for design, permitting, engineering, and construction needed by providers to perform their own analysis and costing. Routing and endpoints will be further evaluated to ensure adequate connectivity and may be adjusted based on feedback from potential partners. The proposed scope of services, basis of compensation, and schedule are outlined below for your review.

CobbFendley’s services are to be performed for the sole benefit of Client, who shall be responsible for payment of those services. When accepted by the signature of Client’s authorized representative, the authorization and the documents referenced herein shall constitute the entire agreement between Client and CobbFendley with respect to this project.

## 2 SCOPE OF SERVICES

### 2.1 Phasing and Unit Line Items

The specific tasks to be performed by CobbFendley in conjunction with this project are limited to the following:

- Milestone 1: Engineering Consulting for Public/Private Partnership (PPP)
  - **Facilitating Discussions with Potential Partners:** Engage potential partners discovered through previous stakeholder discussions to gauge future opportunities for partnership and evaluate responses.
  - **Technical Assistance:** Provide technical assistance to the Client to determine suitable providers for Last Mile Connectivity
- Milestone 2: Preliminary Engineering of the High-Level Design and Technical Assistance
  - **Route Analysis & Planning:** Engineering labor required for high-level planning of OSP/ ISP design. Review network architectures, topology, routing, constructability, sustainability, fiber, pole inventory and analysis, wireless network design, and conduit capacity. The deliverable will be a Google Earth or GIS Exhibit with summary tables.
  - **Permitting/Jurisdictional Analysis:** Develop list of jurisdictional entities requiring permits along proposed HLD routes which includes regulatory compliance & environmental assessments. Provide requirements, fees, processes, and timelines, as available.
  - **Bill of Materials (BOM):** Quantify HLD components and estimate all major line-item materials required for construction.
  - **Engineering & Construction Labor Schedule and Cost Estimate:** Develop detailed engineering schedule and cost estimate based on construction management. Develop high-level construction labor estimate and build schedule utilizing applicable industry standards.

### 2.2 Schedule of Services

See Exhibit B.

### 2.3 Basis of Compensation

CobbFendley proposes to perform the described Scope of Services, billed monthly, with invoices including a percentage of work completed based on the cost estimate found in Exhibit C.

Milestone 1: Engineering Consulting for Public/Private Partnership (PPP) .....	\$ 25,986.00
Milestone 2: Preliminary Engineering of the High-Level Design and Technical Assistance.....	\$ 34,021.00
Scope of Services to be Provided for a Total Fee Not To Exceed.....	\$60,007.00

### **3 ASSUMPTIONS, EXCLUSIONS, AND ADDITIONAL SERVICES**

#### **3.1 Assumptions**

The following assumptions were made in developing this Scope of Work:

- The primary routing in the Fort Bend County Feasibility Study is still applicable.
- Partners (public and private) still share an interest in this project.
- BOMs, construction and engineering costs and scheduled are estimates and detailed only to the extent required by specific grant applications.
- Scope can be completed remotely.

#### **3.2 Exclusions**

The following exclusions will apply to this Scope of Work:

- Low level CAD design work
- Field audits of existing infrastructure
- Grant writing activities beyond design and engineering technical assistance to prepare documentation for application.

#### **3.3 Additional Services**

Any services not included in the scope shall be considered Additional Services. Additional Services are provided on a negotiated lump sum basis, if requested, and after Client authorization with the execution of a Supplement to the Original Agreement.

- Subsurface Utility Engineering
- Professional Surveying Services
- Utility Coordination Services
- Network Low Level Design

A Scope of work for Phase III Final Design and Engineering for Implementation can be provided at a later date.

#### **4 PROPOSAL ACCEPTANCE**

If this proposal is acceptable to you, please provide an authorization to begin work or indicate your acceptance by signing in the space provided below and return one original to us for our file. This proposal is void if not accepted within thirty days of the date hereon. The opportunity to propose professional engineering services to your firm is appreciated and we look forward to serving you on this project.

Sincerely,

**Cobb, Fendley & Associates, Inc.**

Jarod Branstetter, P.E.  
Broadband Group Lead  
CC: Diana Ward, P.E., Vineeta Ram, P.E.

This Proposal Accepted By:

**Fort Bend County, TX**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date of Authorization

## 5 LIST OF EXHIBITS

### 1. Exhibit A

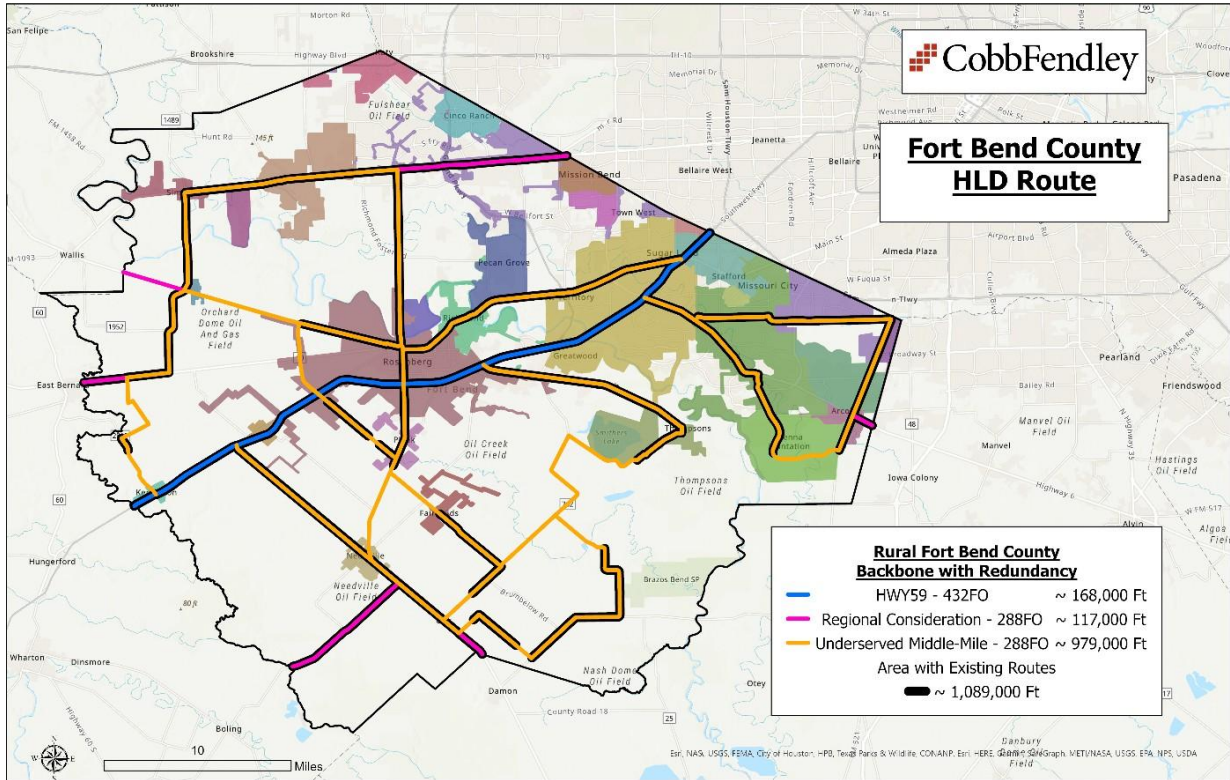


Exhibit A: Provided Scope Map

2. Exhibit B

Task Name	Duration	Start	Finish
Engineering Consulting for Public/Private Partnership (PPP)	65 days	Mon 8/1/22	Fri 10/28/22
Preliminary Engineering of the High-Level Design and Technical Assistance	105 days	Mon 8/1/22	Fri 12/23/22

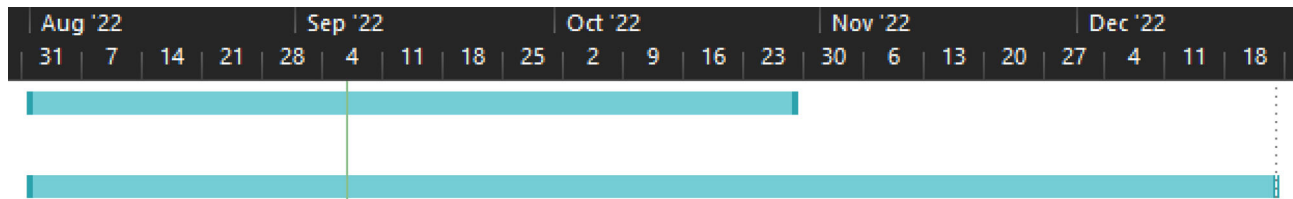


Exhibit B: Schedule of Services

3. Exhibit C

## Fort Bend County Phase II

Exhibit C - Fee Estimate

Deliverable or Task	Project Team					
	Project Manager V	Project Manager I	Project Engineer III	Project Engineer I		
<b>Milestone 1: Engineering Consulting for Public/Private Partnership (PPP)</b>	<b>17</b>	<b>31</b>	<b>46</b>	<b>48</b>	<b>\$</b>	<b>25,986.00</b>
Facilitating Discussions with Potential Partners	14	28	25	25	\$	17,523.00
Technical Assistance	3	3	21	23	\$	8,463.00
<b>Milestone 2: Preliminary Engineering of the High-Level Design and Technical Assistance</b>	<b>10</b>	<b>19</b>	<b>85</b>	<b>87</b>	<b>\$</b>	<b>34,021.00</b>
Route Analysis & Planning	2	4	25	30	\$	10,014.00
Permitting/Jurisdictional Analysis	2	4	25	30	\$	10,014.00
Bill of Materials (BOM)	2	4	13	15	\$	5,781.00
Engineering & Construction Labor Schedule	2	4	9	8	\$	4,100.00
Detailed Cost Estimate	2	3	13	4	\$	4,112.00
					<b>\$</b>	<b>60,007.00</b>

Exhibit C: CF Description Of Work Completed

## **6 GENERAL TERMS AND CONDITIONS OF THE AUTHORIZATION FOR PROFESSIONAL SERVICES**

### **6.1 REIMBURSABLE EXPENSES**

CobbFendley's direct expenses shall be those costs incurred on or directly for the CLIENT'S project, including but not limited to necessary transportation costs including mileage at the current IRS rate, meals and lodging, laboratory tests and analyses, and printing and binding charges. These direct expenses shall be billed in accordance with the attached rate schedule.

### **6.2 OUTSIDE SERVICES**

When technical or professional services are furnished by an outside source, when approved by the CLIENT, an additional amount shall be added to the cost of these services by CobbFendley to cover CobbFendley's administrative costs, as provided in the attached CobbFendley rate schedule.

### **6.3 COST PROJECTIONS**

If included in CobbFendley's scope of services, opinions or estimates of probable construction costs are prepared on the basis of CobbFendley's experience and qualifications and represent CobbFendley's judgment as a professional generally familiar with the industry. However, since CobbFendley has no control over the cost of labor, materials, equipment or services furnished by others, over contractor's methods of determining prices, or over competitive bidding or market conditions, CobbFendley cannot and does not guarantee, represent or warrant that proposals, bids, or the actual construction cost will not vary from CobbFendley's opinions or estimates of probable construction cost.

### **6.4 PROFESSIONAL STANDARDS**

CobbFendley agrees to perform its services in accordance with the standard of professional care used by other practicing professional engineers of ordinary prudence in the same field of engineering and performing the same type of work in CLIENT'S community under the same or similar circumstances. CobbFendley makes no other warranty, expressed or implied.

### **6.5 TERMINATION**

Either CLIENT or CobbFendley may terminate this authorization by giving 30 days written notice to the other party. In such event, CLIENT shall forthwith pay CobbFendley in full for all work previously authorized and performed prior to effective date of termination. If no notice of termination is given, the relationships and obligations created by this Authorization shall be terminated upon completion of all applicable requirements of this Authorization. Failure by Client to make payments when due shall be cause for suspension of services or, ultimately, termination, unless and until CobbFendley has been paid in full all amounts due for services, expenses and other related charges, including interest on past due amounts.

### **6.6 OWNERSHIP OF DOCUMENTS**

All documents prepared or furnished by CobbFendley pursuant to this Agreement are instruments of CobbFendley's professional service, and CobbFendley shall retain an ownership and property interest therein, including all copyrights. CobbFendley grants Client a license to use instruments of CobbFendley's professional service for the purpose of constructing, occupying or maintaining the project. Reuse or modification of any such documents by Client, without CobbFendley's written permission, shall be at Client's sole risk, and Client agrees to indemnify and hold CobbFendley harmless from all claims, damages and expenses, including attorneys' fees, arising out of such reuse by Client or by others acting through Client.

#### 6.7 USE OF ELECTRONIC DOCUMENTS

Copies of documents that may be relied upon by Client are limited to the printed copies (also known as hard copies) or fully-scaled PDF files that are signed and sealed by CobbFendley's authorized design professionals. Files in electronic formats, or other types of information furnished by CobbFendley to Client such as text, data or graphics, are only for convenience of Client. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. When transferring documents in electronic formats, CobbFendley makes no representations as to long-term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems or computer hardware differing from those in use by CobbFendley at the beginning of this project.

#### 6.8 HAZARDOUS ENVIRONMENTAL CONDITIONS

CobbFendley shall have no liability or responsibility for the discovery, presence, handling, removal, disposal, cleanup, or exposure of persons or other property to underground substances, hazards, or conditions or other latent substances, hazards or conditions (including but not limited to contaminants, pollutants, chemicals or other hazardous or toxic solids, liquids or gases of any kind), Client acknowledges that CobbFendley is performing professional services for Client and CobbFendley is not and shall not be required to become an "arranger," "operator," "generator" or "transporter" of hazardous substances, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1990 (CERCLA).

#### 6.9 FORCE MAJEURE

Neither party shall be deemed in default of this agreement to the extent that any delay or failure in the performance of its obligations results from any cause beyond its reasonable control and without its negligence.

#### 6.10 CONSTRUCTION PHASE SERVICES

If this Agreement provides for any construction phase services by CobbFendley, it is agreed that the Contractor, not CobbFendley, is responsible for the construction of the project, and that CobbFendley is not responsible for the acts or omissions of any contractor, subcontractor or material supplier; for time of performance; for safety precautions, programs or enforcement; or for construction means, methods, techniques, sequences and procedures employed by the Contractor. CobbFendley shall not be obligated to make exhaustive or continuous on-site inspections to check the quality or adequacy of construction or to verify that the work or materials of any contractor, subcontractor or materials supplier is in compliance with the plans and specifications. CobbFendley shall not be responsible for the Contractor's failure to execute the work in accordance with the Construction contract.

#### 6.11 LIMITATION OF LIABILITY FOR DAMAGES

IN THE EVENT THAT CLIENT SHALL MAKE ANY CLAIM OR FILE ANY SUIT FOR DAMAGES AGAINST COBBFENDLEY ARISING OUT OF OR RELATED TO COBBFENDLEY'S PERFORMANCE OR NON-PERFORMANCE OF THE SERVICES TO BE PROVIDED UNDER THIS AGREEMENT, COBBFENDLEY'S LIABILITY TO CLIENT FOR ANY SUCH DAMAGES SHALL BE LIMITED TO ACTUAL AND DIRECT DAMAGES TO AN AMOUNT NOT TO EXCEED THE AMOUNT FEES CHARGED BY COBBFENDLEY TO CLIENT HEREUNDER. COBBFENDLEY SHALL HAVE NO LIABILITY FOR ANY CONSEQUENTIAL OR INDIRECT DAMAGES, INCLUDING BUT NOT LIMITED TO LOST PROFITS, LOST BUSINESS OPPORTUNITIES, ADDITIONAL OVERHEAD, OR DAMAGES FOR LOSS OF USE OR LOSS OF PRODUCTION.

#### 6.12 ALTERNATIVE DISPUTE RESOLUTION

In the event that any dispute shall arise between Client and CobbFendley regarding the parties rights or obligations under this Agreement, the parties shall, as a condition precedent to taking any action against one another make a good faith effort to resolve such disagreements by negotiation and/or non-binding mediation.

### 6.13 LEGAL EXPENSES

In the event that legal action is brought by CLIENT or CobbFendley against the other party to enforce any of the obligations hereunder or arising out of any dispute concerning the terms and conditions hereby created, the losing party shall pay the prevailing party such reasonable amounts for fees, costs and expenses as may be set by the court.

### 6.14 PAYMENT TO COBBFENDLEY

Monthly invoices will be issued by CobbFendley for all work performed under the terms of this agreement. Invoices are due and payable within ten (10) business days of receipt. Unless noted otherwise, tasks stated in the Scope of Services will be invoiced on a lump sum basis. If CLIENT is not the OWNER, CLIENT agrees to pay CobbFendley within ten (10) business days of receipt of payment from OWNER. Pending resolution of any dispute concerning any portion of any invoice submitted by CobbFendley, all undisputed portions shall be paid in accordance with this paragraph. Progress payments on CobbFendley fees for percentage of project completion and reimbursable expenses incurred will be due and payable upon receipt of invoice at the end of each month. If payment is not received within 60 days from date of invoice, CobbFendley retains the right to cease further work on the project until such time that the overdue invoices are paid. CobbFendley also retains the right to withhold final approved plans and other deliverables until all overdue invoices are paid.

### 6.15 AUTHORIZATION OF OWNER

Client hereby authorizes CobbFendley to enter upon the property for the purpose of conducting CobbFendley services thereon. If Client is not the Owner of the property, Client agrees to obtain such authorization from the Owner and provide same in writing to CobbFendley.

### 6.16 CONTRACT DOCUMENTS

This signed Authorization, together with the attached General Terms and Conditions of the Authorization for Professional Services and CobbFendley Rate Schedule contains the entire and integrated agreement between Client and CobbFendley and supersedes all prior negotiations, representations or agreements, either written or oral. This agreement may only be amended by written instrument signed by both parties.

### 6.17 SALES TAX

To the extent that state sales taxes apply to any of the services or materials to be provided hereunder, such taxes are in addition to and are not included in the proposed fees of this Authorization.

### 6.18 BENEFICIARIES AND ASSIGNMENT

This agreement is made for the sole benefit of Client and CobbFendley and nothing in this agreement shall create a contractual relationship or cause of action in favor of any third party against either Client or CobbFendley. This agreement may not be assigned without the written consent of both Client and CobbFendley.

# EXHIBIT 3

CONTRACT PROVISIONS FOR CONTRACTS UTILIZING FEDERAL AWARDS AS REQUIRED UNDER 2 C.F.R. APPENDIX II TO PART 200.

Cobb, Fendley & Associates, Inc. (hereinafter "Contractor") understands and acknowledges that this Agreement may be totally or partially funded with federal funds. As a condition of receiving these funds, Contractor represents that it is and will remain in compliance with all federal terms as stated below. These terms flow down to all third party contractors and their subcontracts at every tier that exceed the small purchase threshold as set by the County, unless a particular award term or condition specifically indicates otherwise. The Contractor shall require that these clauses shall be included in each covered transaction at any tier.

1. Remedies and Breach.

Contracts for more than the small purchase threshold currently set by the County at \$50,000 must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

2. Termination.

All contracts in excess of \$10,000 must address termination for cause and for convenience by the Contractor including the manner by which it will be effected and the basis for settlement.

3. Equal Employment Opportunity.

In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, 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. The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance modified only if necessary to identify the affected parties.

4. Davis-Bacon Act.

As amended (40 U.S.C. 3141–3148), when required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141–3144, and 3146–3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions

Applicable to Contracts Covering Federally Financed and Assisted Construction’’). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland ‘‘Anti- Kickback’’ Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, ‘‘Contractors and Sub- contractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States’’). The Act provides that each contractor or sub- recipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

5. Contract Work Hours and Safety Standards Act (40 U.S.C. 3701–3708).

Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

Contractor shall include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5) in all subcontracts in excess of \$100,000 that involve the employment of mechanics or laborers.

6. Rights to Inventions under a Contract or Agreement.

Contractor acknowledges that the federal government reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and authorize others to use (in whole or in part, including in connection with derivative works), for state (or Federal) purposes. Contractor will comply with the requirements of 37 CFR Part 401, ‘‘Rights to Inventions Made by Nonprofit Organizations and Small Business Firms under Government Grants, Contracts and Cooperative Agreements’’.

7. Clean Air.

The 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 County and understands and agrees that the County will, in turn, report each violation as required to assure notification to the appropriate EPA Regional Office. The Contractor agrees it will not use any violating facilities. It will report the use of facilities placed on or likely to be placed on the U.S. EPA “List of Violating Facilities”. It will report violations of use of prohibited facilities to the appropriate EPA Regional Office.

The Contractor also agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance.

8. Clean Water.

The 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 County and understands and agrees that the County will, in turn, report each violation as required to assure notification to the appropriate EPA Regional Office. The Contractor agrees it will not use any violating facilities. It will report the use of facilities placed on or likely to be placed on the U.S. EPA “List of Violating Facilities”. It will report violations of use of prohibited facilities to the appropriate EPA Regional Office.

The Contractor also agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance.

9. Government-wide Debarment and Suspension.

The Contractor shall comply and facilitate compliance with the U.S. Office of Management and Budget (U.S. OMB) “Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” 2 C.F.R. part 180. A contract award in any tier must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 C.F.R. § 180 that implement Executive Orders Nos. 12549 (3 C F R part 1986 Comp., p. 189) and 12689 (3 C.F.R. part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order No. 12549. These provisions apply to each contract at any tier of \$25,000 or more, and to each contract at any tier for a federally required audit (irrespective of the contract amount).

This certification is a material representation of fact relied upon by the County. If it is later determined that the Contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to County, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

Contractor agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt.

3000, 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.

10. Byrd Anti-Lobbying Amendment.

Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 C.F.R. Part 20, "New Restrictions on Lobbying." Contractor certifies that it and all its subcontractors at every tier will not and have 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, award, including any extension, continuation, renewal, amendment, or modification 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.

11. Procurement of Recovered Materials.

The Contractor agrees to provide a preference for those products and services that conserve natural resources, protect the environment, and are energy efficient by complying with and facilitating compliance with Section 6002 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6962, and U.S. Environmental Protection Agency (U.S. EPA), "Comprehensive Procurement Guideline for Products Containing Recovered Materials," 40 C.F.R. part 247.

12. Prohibited Telecommunications and Video Surveillance Services and Equipment.

Contractor understands and acknowledges that under 2 CFR 200.216, the County is prohibited from using federal funds to procure, obtain, extend or renew a contract to procure or obtain covered telecommunications equipment or services, including telecom equipment produced by Huawei Technologies Company or ZTE Corp. (or subsidiaries or affiliates of such entities).

Contractor, therefore, certifies that they are in compliance with the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (FY 2019 NDAA), Pub. L. No. 115-232 (2018), and that in the performance of this agreement, it will not provide equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

(i.) For the purpose of public safety, security of Government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities);

- (ii.) Telecommunications or video surveillance services provided by such entities or using such equipment; or
- (iii.) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the People's Republic of China.

### 13. Domestic Preferences for Procurements.

As appropriate and to the extent consistent with law, Contractor shall to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products procured with federal funds. For purposes of this clause, (1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States. (2) "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.