

2. **Scope of Services.** Bowman shall render services to County as provided in the Agreement and as further provided in Bowman’s Letter dated January 13, 2022 (hereinafter, the “Services”) attached hereto as “Exhibit A-4” and incorporated by reference for all intents and purposes.
3. **Time of Performance.** Time for performance of the Scope of Services under this Agreement shall begin with Bowman’s receipt of Notice to Proceed and shall end no later than December 31, 2026. Bowman shall complete such tasks described in the Scope of Services, within this time or within such additional time as may be extended by County.
4. **Limit of Appropriation.** Bowman understands and agrees that the Maximum Compensation payable to Bowman for Services rendered under the Agreement is hereby increased to an amount not to exceed One Million Five Hundred Fifty Eight Thousand Seven Hundred Sixty Five and 00/100 Dollars (\$1,558,765.00) authorized as follows:

\$1,144,420.00 under the Original Agreement
\$256,235.00 under the First Amendment
\$26,400.00 under the Second Amendment
\$80,710.00 under the Third Amendment
\$51,000.00 under this Fourth Amendment

In no event shall the amount paid by County under the Agreement exceed the Maximum Compensation without a County approved change order. Bowman clearly understands and agrees, such understanding and agreement being of the absolute essence of the Agreement that County shall have available the total maximum sum of One Million Five Hundred Fifty Eight Thousand Seven Hundred Sixty Five and 00/100 Dollars (\$1,558,765.00) specifically allocated to fully discharge any and all liabilities County may incur under the Agreement.

Bowman does further understand and agree, said understanding and agreement also being of the absolute essence of the Agreement that the total Maximum Compensation that Bowman may become entitled to and the total maximum sum that County may become liable to pay to Bowman under the Agreement shall not under any conditions, circumstances, or interpretations thereof exceed One Million Five Hundred Fifty Eight Thousand Seven Hundred Sixty Five and 00/100 Dollars (\$1,558,765.00).

5. **Compensation and Payment Terms.**

- (a) Bowman’s fees for the Services shall be calculated at the rate(s) set forth in Bowman’s Letter attached hereto as Exhibit “A-4.” The Maximum Compensation to Bowman for the Services performed under this Agreement is Fifty One Thousand and 00/100 Dollars (\$51,000.00). In no event shall the amount paid by County to Bowman under this Agreement exceed said Maximum Compensation without an approved change order.

- (b) Bowman understands and agrees that the Maximum Compensation stated is an all-inclusive amount and no additional fee, cost or reimbursed expense shall be added whatsoever to the fees stated in Exhibit "A-4."
 - (c) County will pay Bowman based on the following procedures: Upon completion of the tasks identified in the Scope of Services, Bowman 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.
- 6. **Non-appropriation.** Bowman understands and agrees that in the event no funds or insufficient funds are appropriated by the County under this Agreement, County shall immediately notify Bowman in writing of such occurrence and the Agreement shall thereafter terminate and be null and void on the last day of the fiscal period for which appropriations were received or made without penalty, liability or expense to the County. In no event shall said termination of this Agreement or County's failure to appropriate said funds be deemed a breach or default of this Agreement or create a debt by County in any amount(s) in excess of those previously funded.
- 7. **Taxes.** County is a body corporate and politic under the laws of the state of Texas and as such, is exempt from sales and use taxes. County shall furnish evidence of its tax-exempt status upon written request by Bowman.
- 8. **Insurance.** Prior to commencement of the Services, Bowman 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. Bowman shall provide certified copies of insurance endorsements and/or policies if requested by County. Bowman 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. Bowman shall obtain such insurance written on an Occurrence form from such companies having Best's rating of A/VII or better, licensed or approved to transact business in the State of Texas, and shall obtain such insurance of the following types and minimum limits:
 - (a) Workers Compensation in accordance with the laws of the State of Texas. Substitutes to genuine Workers' Compensation Insurance will not be allowed.
 - (b) 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.

- (c) 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.
- (d) Business Automobile Liability coverage applying to owned, non-owned and hired automobiles with limits not less than \$1,000,000 each occurrence combined single limit for Bodily Injury and Property Damage combined.
- (e) Professional Liability insurance with limits not less than \$1,000,000.

County shall be named as additional insured to all required coverage except for Workers' Compensation and Professional Liability (if required). All Liability policies written on behalf of Bowman shall contain a waiver of subrogation in favor of County.

If required coverage is written on a claims-made basis, Bowman 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 the work under this Contract is completed.

Bowman shall not commence any portion of the work under this Contract until it has obtained the insurance required herein and certificates of such insurance have been filed with and approved by County.

No cancellation of or changes to the certificates, or the policies, may be made without thirty (30) days prior, written notification to County.

Approval of the insurance by County shall not relieve or decrease the liability of the Bowman.

9. **Indemnity. TO THE FULLEST EXTENT PROVIDED BY APPLICABLE LAW, BOWMAN SHALL INDEMNIFY AND HOLD HARMLESS COUNTY, ITS OFFICIALS, OFFICERS, AND EMPLOYEES FROM AND AGAINST ALL CLAIMS, LOSSES, DAMAGES, CAUSES OF ACTION, SUITS, LIABILITY, AND COSTS, INCLUDING THE REIMBURSEMENT OF REASONABLE ATTORNEY FEES, ARISING OUT OF OR RESULTING FROM AN ACT OF NEGLIGENCE, INTENTIONAL TORT, INTELLECTUAL PROPERTY INFRINGEMENT, OR FAILURE TO PAY A SUBBOWMAN OR SUPPLIER COMMITTED BY BOWMAN OR BOWMAN'S AGENTS, EMPLOYEES, OR ANOTHER ENTITY OVER WHICH BOWMAN EXERCISES CONTROL. BOWMAN SHALL FURTHER PROCURE AND MAINTAIN GENERAL LIABILITY INSURANCE WITH COVERAGE AS PROVIDED IN SECTION 8 OF THIS AGREEMENT AND SHALL FURNISH A CERTIFICATE OF INSURANCE FOR THE SAME SHOWING FORT BEND COUNTY, TEXAS AS AN ADDITIONAL INSURED.**

10. **Public Information Act.** Bowman expressly acknowledges and agrees that County is a public entity and as such, is subject to the provisions of the Texas Public Information Act under Chapter 552 of the Texas Government Code. In no event shall County be liable to Bowman for release of information pursuant to Chapter 552 of the Texas Government Code or any other provision of law. Except to the extent required by law or as directed by the Texas Attorney General, County agrees to maintain the confidentiality of information provided by Bowman expressly marked as proprietary or confidential. County shall not be liable to Bowman for any disclosure of any proprietary or confidential information if such information is disclosed under Texas law or at the direction of the Texas Attorney General. Bowman further acknowledges and agrees that the terms and conditions of this Agreement are not proprietary or confidential information.
11. **Compliance with Laws.** Bowman shall comply with all federal, state, and local laws, statutes, ordinances, rules, regulations, and the 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. Bowman in providing all services hereunder, further agrees to abide by the provisions of any applicable Federal or State Data Privacy Act.
12. **Independent Contractor.** In the performance of work or services hereunder, Bowman 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 Bowman. Bowman 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.
13. **Use of Customer Name.** Bowman may use County's name without County's prior written consent only in Bowman's customer lists. Any other use of County's name by Bowman must have the prior written consent of County.
14. **County/County Data.** Nothing in this Agreement shall be construed to waive the requirements of Section 205.009 of the Texas Local Government Code.
15. **Personnel.** Bowman 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 Bowman 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 Bowman shall have such knowledge and experience as will enable them to perform the duties assigned to them. Any employee of Bowman or agent of Bowman who, in County's opinion, is incompetent or by his conduct become 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.

When performing Services on-site at County's facilities, Bowman shall comply with, and will require that all Bowman's Personnel comply with, all applicable rules, regulations and known policies of County that are communicated to Bowman in writing, including security procedures concerning systems and data and remote access thereto, building security procedures, including the restriction of access by County to certain areas of its premises or systems for security reasons, and general health and safety practices and procedures.

- 16. Confidential and Proprietary Information.** Bowman 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 Bowman 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 Bowman 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 Bowman) publicly known or is contained in a publicly available document; (b) is rightfully in Bowman'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 Bowman who can be shown to have had no access to the Confidential Information.

Bowman agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Bowman 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. Bowman 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, Bowman shall advise County immediately in the event Bowman 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 Bowman will at its expense cooperate with County in seeking injunctive or other equitable relief in the name of County or Bowman against any such person. Bowman agrees that, except as directed by County, Bowman 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, Bowman will promptly turn over to County all documents, papers, and other matter in Bowman's possession which embody Confidential Information.

Bowman 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. Bowman 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.

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

17. **Ownership and Reuse of Documents.** All documents, data, reports, research, graphic presentation materials, etc., developed by Bowman as a part of its work under this Agreement, shall become the property of County upon completion or termination of this Agreement. Bowman shall promptly furnish all such data and material to County on request.
18. **Inspection of Books and Records.** Bowman shall permit County, or any duly authorized agent of County, to inspect and examine the books and records of Bowman for the purpose of verifying the amount of work performed under the Scope of Services. County's right to inspect such books and records shall survive the termination of this Agreement for a period of four years. Notwithstanding the foregoing, Bowman shall bear no liability or responsibility for deliverables that have been modified post-delivery or used for a purpose other than that for which they were prepared under this Agreement.
19. **Termination.** County may terminate this Agreement at any time, with or without cause, upon thirty (30) days written notice to Bowman. Upon termination of this Agreement by County, Bowman shall be paid in accordance with Section 4, above, for those services which were provided under this Agreement prior to its termination and which have not been previously invoiced to County. Bowman's final invoice for said services will be presented to and paid by County in the same manner set forth in Section 4 above. No fees of any type, other than fees due and payable at the Termination Date, shall thereafter be paid to Bowman by County.
20. **Force Majeure.** Notwithstanding anything to the contrary contained herein, neither Party shall be liable to the other for any delay or inability to carry out its obligations under this Agreement if such delay or inability is the result of a Force Majeure Event. Within a reasonable time after the occurrence of such event, the Party whose obligations are affected (the "Affected Party") thereby shall notify the other in writing stating the nature of the event and the anticipated duration. The Affected Party's obligations under this Agreement shall be suspended during the continuance of any delay or inability caused by

the event, but for no longer period. The Affected Party shall further endeavor to remove or overcome such delay or inability as soon as is reasonably possible.

For purposes of this Agreement, a Force Majeure Event includes, but is not limited to: strikes or other labor disputes, severe weather disruptions, natural disasters, fire or other acts of God; riots, war, or other emergencies; failure of any governmental agency to act in a timely manner; the discovery of any hazardous substance or differing and unforeseeable site conditions; and any other inability of any Party, similar to those enumerated, which are not within the control of the Party claiming such inability, which such Party could not have avoided by the reasonable exercise of due diligence and care.

21. **Assignment.** Bowman may not assign this Agreement to another party without the prior written consent of County.
22. **Successors and Assigns Bound.** County and Bowman each bind themselves and their successors and assigns to the other Party and to the successors and assigns of such other Party, with respect to all covenants of this Agreement.
23. **Publicity.** Contact with citizens of Fort Bend County, media outlets, or other governmental agencies shall be the sole responsibility of County. Under no circumstances, whatsoever, shall Bowman release any material or information developed or received during the performance of Services hereunder unless Bowman obtains the express written approval of County or is required to do so by law.
24. **Notice.** Any and all notices required or permitted under this Agreement shall be in writing and shall be mailed by certified mail, return receipt requested, or personally delivered to the following addresses:

If to County: Fort Bend County Engineering
Attn: County Engineer
301 Jackson Street
Richmond, Texas 77469

And

Fort Bend County, Texas
Attention: County Judge
401 Jackson Street, 1st Floor
Richmond, Texas 77469

If to Bowman: Bowman Consulting Group
13430 Northwest Fwy., Suite 1100
Houston, Texas 77040

25. **Performance Representation.** Bowman represents to County that Bowman has the skill and knowledge ordinarily possessed by well-informed members of its trade or profession (“Professionals”) practicing in the greater Houston metropolitan area. Bowman shall provide the Services to County with the same professional skill and care ordinarily provided by such Professionals under the same or similar circumstances and professional license and as expeditiously as is prudent considering the ordinary professional skill and care of a competent Professional.
26. **Entire Agreement and Modification.** This Agreement constitutes the entire Agreement between the Parties and supersedes all previous agreements, written or oral, pertaining to the subject matter of this Agreement. Any amendment to this Agreement must be in writing and signed by each Party to come into full force and effect.
27. **Understanding Fair Construction.** By execution of this Agreement, the Parties acknowledge that they have read and understood each provision, term, and obligation contained herein. This Agreement, although drawn by one party, shall be construed fairly and reasonably and not more strictly against the drafting Party than the non-drafting Party.
28. **Severability.** In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.
29. **No Waiver of Immunity.** Neither the execution of this Agreement nor any other conduct of either party relating to this Agreement shall be considered a waiver or surrender by County of its governmental powers or immunity under the Texas Constitution or the laws of the state of Texas.
30. **Applicable Law and Venue.** This Agreement shall be construed according to the laws of the state of Texas. Venue for any claim arising out of or relating to the subject matter of this Agreement shall lie in a court of competent jurisdiction of Fort Bend County, Texas.
31. **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, Bowman hereby verifies that Bowman 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.

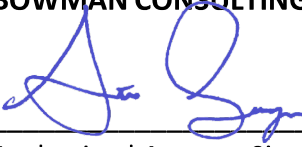
- (b) If employing ten (10) or more full-time employees and this Agreement has a value of \$100,000.00 or more, Bowman does not boycott Israel and is authorized to agree in such contracts not to boycott Israel during the term of such contracts. "Boycott Israel" has the meaning provided in § 808.001 of 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, Bowman 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, Bowman 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.
32. **Human Trafficking.** BY ACCEPTANCE OF THIS AGREEMENT, BOWMAN 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.
33. **Captions.** The section captions used in this Agreement are for convenience of reference only and do not affect the interpretation or construction of the Agreement.
34. **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 shall have the same force and effect as the use of manual signatures.
35. **Certification.** By his or her signature below, each signatory individual certifies that he or she is the properly authorized person or officer of the applicable Party hereto and has the requisite authority necessary to execute this Agreement on behalf of such Party, and each Party hereby certifies to the other that it has obtained the appropriate approvals or authorizations from its governing body as required by law.

IN WITNESS WHEREOF, and intending to be legally bound, County and Bowman hereto have executed this Agreement to be effective on the date signed by the last Party hereto.

FORT BEND COUNTY, TEXAS

BOWMAN CONSULTING GROUP, LTD.

KP George, County Judge



Authorized Agent – Signature

Stephen Garza, P.E.

Date

Authorized Agent- Printed Name

Team Lead Manager

ATTEST:

Title

05/10/2023

Laura Richard, County Clerk

Date

APPROVED:



J. Stacy Slawinski, County Engineer

AUDITOR'S CERTIFICATE

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

Robert Ed Sturdivant, County Auditor

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January 13, 2022

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

Re: **Lake Olympia Segment 2
Change Order #4 Tasks X18-X21
2017 Mobility Bond Project #17201
Fort Bend County, Texas**

**TBPE Registration # F-14309
TAI Project Number: 0522-1802**

Mr. Slawinski,

Bowman appreciates this opportunity to submit this proposal for additional service for the aforementioned project. The scope of additional services is as follows:

Task X18 – Parcel 1 Revisions

We will revise the previously prepared legal description for Parcel 1 and create 2 separate legal descriptions and exhibits that address the 2 owners that now make up Parcel 1. **We propose to provide the services described under Task X18 for a fixed fee of \$9,400.**

Task X19 – Design Revisions

We will revise the design plans based on direction received from Fort Bend County. The design revisions include additional left turn lanes into the tracts of adjacent property owners, stub outs for future public street improvements and modifications to the pavement striping and traffic control to coordinate with the proposed TxDOT improvements to FM521. We will update plan specifications and quantities to address the design revisions **We propose to provide the services described under Task X19 for a fixed fee of \$17,700.**

Task X20 – Waterline Extension Design

Per the requirements of the City of Houston, we will prepare the necessary public plan and profile drawings for the utility connections along the desired segment. This will be to serve FT. Bend Freshwater District #1. The limits are assumed to be the entire segment 2 length profiles shall not include any leads or taps into private or public parcels only the main truck line. The waterline is assumed to be an 8" Waterline. The waterline shall be designed shall include all necessary offset to avoid existing utilities. Coordination and meeting are included in the design fixed fee but shall be limited to two meeting with Water district and County. **We propose to provide the services described under Task X20 for a fixed fee of \$19,500.**



Task X21 – Permit Processing

We will assist the Client's Permit Expeditor for approval of permit(s) for all Waterline construction plans with the City of Houston Office of the City Engineer review and Ft. Bend County Engineering Review from task X20. This includes assistance in filling out the Review Form, Plan Review Checklist, and revising drawings per comments. If additional Review Cycles with the COH OCE exceed the amount below Bowman may ask for additional fees to complete this task more than the fee below. Additional authorization may be required for final COH approval. We request that you issue checks for any fees in excess of \$200, unless otherwise agreed upon in advance. **We propose to provide the services described under Task X21 for Time and material fee not to exceed \$4,400.**

The total request for this change order is \$51,000. If you have any questions, or require additional information, please contact us at any time.

Best regards,

A handwritten signature in blue ink, appearing to read "Stephen Garza", written over a horizontal line.

Stephen Garza, P.E.
Team Lead Manager