

STATE OF TEXAS

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KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF FORT BEND

**AGREEMENT FOR PROFESSIONAL MATERIALS TESTING SERVICES**  
**MOBILITY BOND PROJECT NO. 747**

THIS AGREEMENT for Professional Materials Testing Services is made and entered into by and between the Fort Bend County, a body corporate and politic under the laws of the State of Texas, acting by and through the Fort Bend County Commissioners Court, hereinafter referred to as "County," and Paradigm Consultants, Inc., hereinafter referred to as "Contractor" authorized to conduct business in the State of Texas.

WITNESSETH:

WHEREAS, County desires that Contractor provide professional materials testing services for the expansion of Ransom Road, Phase I, from Pilgrim to Williams Way, Mobility Bond Project No. 747 located in Fort Bend County, Texas, hereinafter called the "Project;" and,

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

WHEREAS, County has determined that this Agreement is for personal or professional services and therefore exempt from competitive bidding under Chapter 262, LOCAL GOVERNMENT CODE.

NOW, THEREFORE, County and Contractor, in consideration of the mutual covenants and agreements herein contained, do mutually agree as follows:

SECTION I  
SCOPE OF AGREEMENT

Contractor agrees to perform professional materials testing engineering services in connection with the Project as stated herein and for having rendered such services, County agrees to pay to Contractor compensation as stated herein.

SECTION II  
CHARACTER AND EXTENT OF SERVICES

- 2.01 Contractor agrees to provide the services described Contractor's Proposal dated December 10, 2010, as included in Exhibit A, attached hereto and incorporated by reference as if set forth herein verbatim for all purposes.
- 2.02 Contractor agrees to complete the services called for in Exhibit A on or before December 31, 2011.

SECTION III  
CONTRACTOR'S COMPENSATION

- 3.01 For and in consideration of the services rendered by Contractor, and subject to the limit of appropriation under Section VII, County shall pay to Contractor an amount not to exceed \$134,454.00, including reimbursable expenses, if any.

- 3.02 Contractor shall submit invoices to County and County shall pay each invoice within thirty (30) days after the County Project Manager's written approval provided however, that the approval or payment of any invoice shall not be considered to be conclusive evidence of performance by Contractor to the point indicated by such invoice or of receipt or acceptance by the County of the services covered by such invoice.
- 3.03 Contractor's fees shall be calculated at rates not to exceed the amounts included on Exhibit A, incorporated by reference herein as if set-forth verbatim.

#### SECTION IV TERMINATION

- 4.01 County may terminate this Agreement at any time by providing ten (10) days written notice to the Contractor.
- 4.02 Upon receipt of such notice, the Contractor shall discontinue all services in connection with the performance of this Agreement and shall proceed to cancel promptly all existing orders and contracts insofar as such orders or contracts are chargeable to this Agreement.
- 4.03 Within thirty (30) days after receipt of notice of termination, the Contractor shall submit a statement, showing in detail the services performed under this Agreement to the date of termination.
- 4.04 County shall then pay the Contractor that proportion of the prescribed charges which the services actually performed under this Agreement bear to the total services called for under this Agreement, less such payments on account of charges as have been previously made.
- 4.05 Copies of all completed or partially completed designs, drawings, electronic data files and specifications prepared under this Agreement shall be delivered to the County when and if this Agreement is terminated in the manner and for the purposes provided in this Agreement.

#### SECTION V INSURANCE

Contractor shall, prior to performing billable services and for the duration of term of this Agreement, keep in full force and effect a policy of general liability insurance of not less than \$1,000,000.00 for each claim aggregate, which shall be approved by the Fort Bend County Risk Management Department prior to purchase. The policy shall contain a clause that the insurer will not cancel or reduce the insurance without first giving County ten (10) days prior written notice. The insurance shall be in a company acceptable to the Fort Bend County Risk Management Department and a copy of the policy or certification of insurance shall be delivered to the Fort Bend County Risk Management Department as soon as available. Failure of Contractor to provide the appropriate insurance information shall invalidate this Agreement.

#### SECTION VI NOTICE

- 6.01 Any notice required to be given under the provisions of this Agreement shall be in writing and shall be duly served when it shall have been deposited, enclosed in a wrapper with the proper postage prepaid thereon, and duly registered or certified, return receipt requested, in a United States Post Office, addressed to the County or the Contractor at the addresses set forth below.

- 6.02 If mailed, any notice or communication shall be deemed to be received three days after the date of deposit in the United States Mail.
- 6.03 Unless otherwise provided in this Agreement, all notices shall be delivered to the following addresses:

A. If to the Contractor:

Paradigm Consultants, Inc.  
Attn: John D. Pearson, Project Manager  
2501 Central Parkway, Suite A3  
Houston, Texas 77092  
713-688-6795 - fax

B. If to County notice must be sent to both the Fort Bend County Purchasing Agent and County Project Manager:

Fort Bend County Purchasing Department  
Gilbert D. Jalomo, Jr., CPPB  
4520 Reading Road, Suite A  
Rosenberg, Texas 77471

D. Jesse Hegemier  
County Engineer  
1124-52 Blume Road  
Rosenberg, Texas 77471

- 6.04 Either party may designate a different address by giving the other party ten (10) days written notice.

## SECTION VII LIMIT OF APPROPRIATION

- 7.01 Prior to the execution of this Agreement, Contractor has been advised by County, and Contractor clearly understands and agrees, such understanding and agreement being of the absolute essence to this contract, that County shall have available the total maximum sum of \$134,454.00, including reimbursable expenses, if any, specifically allocated to fully discharge any and all liabilities which may be incurred by County.
- 7.02 Contractor does further understand and agree, said understanding and agreement also being of the absolute essence of this contract, that the total maximum compensation that Contractor may become entitled to hereunder and the total maximum sum that County shall become liable to pay to Contractor hereunder shall not under any conditions, circumstances or interpretations thereof exceed the sum of \$134,454.00 for described scope of work in Exhibit A.

## SECTION VIII SUCCESSORS AND ASSIGNS

- 8.01 County and Contractor bind themselves and their successors, executors, administrators and assigns to the other party of this Agreement and to the successors, executors,

administrators and assigns of such other party, in respect to all covenants of this Agreement.

- 8.02 Neither County nor Contractor shall assign, sublet or transfer its or his interest in this Agreement without the prior written consent of the other.
- 8.03 Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of any public and/or governmental body that may be a party hereto.

#### SECTION IX PUBLIC CONTACT

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

#### SECTION X COMPLIANCE AND STANDARDS

Contractor shall render the services hereunder in accordance with accepted standards of engineers practicing in the Greater Houston Metro Area, applicable thereto and shall use that degree of care and skill commensurate with the profession similar to the Project to comply with all applicable state, federal, and local laws, ordinances, rules and regulations relating to the services to be rendered hereunder, and Contractor's performance.

#### SECTION XI OWNERSHIP OF DOCUMENTS

- 11.01 County shall be the absolute and unqualified owner of all drawings, preliminary layouts, record drawings, sketches and other documents prepared pursuant to this Agreement by the Contractor and his contractors or subcontractors (deliverables).
- 11.02 No reuse fees or royalty payments will be paid to the Contractor in connection with future reuse or adaptation of designs derived under this contract.
- 11.03 Copies of all complete or partially completed mylar reproducible, preliminary layouts, record drawings, digital files, sketches and other documents prepared pursuant to this Agreement shall be delivered to County when and if this Agreement is terminated or upon completion of this Agreement, whichever occurs first, as provided in this Agreement.
- 11.04 Contractor is expressly prohibited from selling, licensing or otherwise marketing or donating such documents, or using such documents in the preparation of other work for any other client, or from duplicating the appearance of the Project depicted in the deliverables for any without the prior express written permission of County.
- 11.05 The documents referenced in this Section are not intended or presented by Contractor to be suitable for reuse by County or others on extensions of this Project or on other unrelated projects.
- 11.06 Any adaptation or use by County of such documents on extension of this Project or other unrelated projects shall be at County's sole risk.

SECTION XII  
INDEMNIFICATION

- 12.01 CONTRACTOR SHALL SAVE HARMLESS COUNTY FROM AND AGAINST ALL CLAIMS, LIABILITY, AND EXPENSES, INCLUDING REASONABLE ATTORNEYS FEES, ARISING FROM ACTIVITIES OF CONTRACTOR, ITS AGENTS, CONTRACTORS OR EMPLOYEES, PERFORMED UNDER THIS AGREEMENT THAT RESULT FROM THE NEGLIGENT ACT, ERROR, OR OMISSION OF CONTRACTOR ANY OF CONTRACTOR'S AGENTS, SERVANTS OR EMPLOYEES.
- 12.02 CONTRACTOR SHALL ALSO SAVE HARMLESS COUNTY FROM AND AGAINST ANY AND ALL EXPENSES, INCLUDING REASONABLE ATTORNEY'S FEES WHICH MIGHT BE INCURRED BY COUNTY, IN LITIGATION OR OTHERWISE RESISTING SAID CLAIMS OR LIABILITIES THAT MIGHT BE IMPOSED ON COUNTY AS THE RESULT OF SUCH NEGLIGENT ACTS, ERRORS OR OMISSIONS BY CONTRACTOR, ITS AGENTS, SUBCONTRACTORS OR EMPLOYEES.

SECTION XIII  
MODIFICATIONS

This instrument contains the entire Agreement between the parties relating to the rights herein granted and obligations herein assumed. Any oral or written representations or modifications concerning this instrument shall be of no force and effect excepting a subsequent written modification signed by both parties hereto.

SECTION XIV  
MISCELLANEOUS

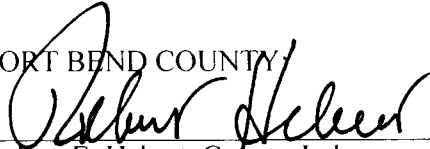
- 14.01 By entering into this Agreement, the parties do not intend to create any obligations, express or implied, other than those specifically set out in this Agreement.
- 14.02 Nothing in this Agreement shall create any rights or obligations in any party who is not a signatory to this Agreement.
- 14.03 Contractor agrees and understands that: by law, the Fort Bend County Attorney's Office may only advise or approve contracts or legal documents on behalf of its clients; the Fort Bend County Attorney's Office may not advise or approve a contract or other legal document on behalf of any other party not its client; the Fort Bend County Attorney's Office has reviewed this document solely from the legal perspective of its client; the approval of this document by the Fort Bend County Attorneys Office was offered solely to benefit its client; Contractor and other parties should not rely on this approval and should seek review and approval by their own respective legal counsel.
- 14.04 If there is a conflict between this Agreement and Exhibit A, the provisions of this Agreement shall prevail.

*REMAINDER OF PAGE INTENTIONALLY LEFT BLANK*

SECTION XV  
EXECUTION

This Agreement shall not become effective until executed by County


FORT BEND COUNTY

  
Robert E. Hebert, County Judge

12-21-2010

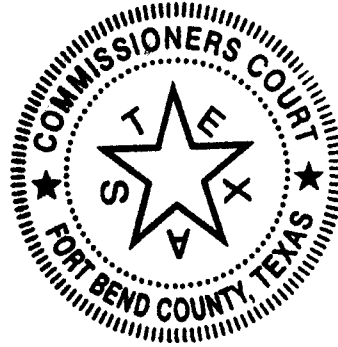
Date

Attest:


  
Dianne Wilson, County Clerk

Approved: COUNTY PROJECT MANAGER

  
D. Jesse Hegemier, Fort Bend County Engineer



CONTRACTOR: Paradigm Consultants, Inc.

  
Greg Hartwig, V.P.

12-15-10

Date

MER:Paradigm Materials.Testing.Ransom Road.3791-747

AUDITOR'S CERTIFICATE

I hereby certify that funds are available in the amount of \$134,454.00 to accomplish and pay the obligation of the Fort Bend County under this contract.

  
Ed Sturdivant, Fort Bend County Auditor

Exhibit A: December 10, 2010 Proposal from Contractor

Exhibit A

December 10, 2010  
Proposal No. 10-231 Revision 3



Paradigm  
Consultants, Inc.

2501 Central Parkway  
Suite A3  
Houston, Texas 77092

Tel: 713.686.6771  
Fax: 713.686.6795  
[paradigmconsultants.com](http://paradigmconsultants.com)  
TBPE Reg. No. F-001478

Fort Bend County Engineering Department  
c/o Mr. Peter A. Ring  
Schaumburg & Polk, Inc.  
11767 Katy Freeway, Suite 900  
Houston, Texas 77079

**Construction Materials Testing Estimate  
Ransom Road (Phase I) from Pilgrim to Williams Way  
Fort Bend County, Texas**

Dear Mr. Ring:

Paradigm Consultants, Inc., appreciates the opportunity to provide this construction materials testing proposal for the referenced project. This cost estimate presents our estimated cost of services and an abbreviated scope of services.

This proposal is based on our review of the project documents, based on a 365-day maximum contract time, and our past experience on similar projects.

Our estimated cost of services is **\$134,454** and is based on the attached Scope of Services that is in general accordance with Harris County Specification Requirements. We will also invoice in accordance with Harris County Fee Schedule for Materials Engineering Laboratory Services dated March 31, 2008. The attached spreadsheet reflects our estimates.

We appreciate the opportunity work on this project. If you need additional information at this time, please call.

Sincerely,

A handwritten signature in black ink that reads "John D. Pearson". The signature is written in a cursive, flowing style.

John D. Pearson  
Senior Project Manager

Enc.      Abbreviated Description of Services  
            Summary of Estimated Services and Costs

Proposals: P10-231 Revision 3

**DESCRIPTION AND ESTIMATED COST OF SERVICES  
RANSOM ROAD (PHASE I) FROM PILGRIM TO WILLIAMS WAY  
FORT BEND COUNTY, TEXAS  
Page 2 of 4**

**FILL AND UTILITY BACKFILL MONITORING AND TESTING**

- Sample fill materials and perform laboratory testing to determine physical and engineering characteristics including Liquid Limits, Plasticity Index, Gradation, Moisture/Density Relationships
- Monitor fill lift thickness and compaction process
- Perform field density and moisture testing

**LIME STABILIZED SUBGRADE**

- Sample and test lime slurry
- Verify weight and percent solids of lime loads
- Calculation of average applied slurry rate
- Gradation testing of final stabilized subgrade mix
- Monitor moisture adjustment of stabilized subgrade
- Perform field density and moisture testing
- Monitoring moisture curing of stabilized subgrade

**ASPHALT STABILIZED BASE**

- Sample base course materials and perform laboratory testing to determine physical and engineering characteristics including Liquid Limits, Plasticity Index, Gradation, Linear Shrinkage, Coarse Aggregate Angularity, Sand Equivalent, Decantation, Laboratory Density and Strength, Percent Asphalt
- Perform field density and moisture testing and in-place thickness determination

**CONCRETE PAVEMENT**

- Sample fresh concrete during placements and perform slump, entrained air, temperature and pavement thickness testing and/or determination
- Cast and test compressive strength samples
- Obtain test cores and provide compressive strength and length measurements

**PROJECT ENGINEERING AND MANAGEMENT**

- Oversight and supervision of field and laboratory personnel
- Report review and processing, including signature by Professional Engineer on all technical and engineering reports
- Issuance via e-mail and posting of all reports to a web-based module
- Attendance at progress and special meeting on an as-needed basis
- Engineering services on an as-requested basis
- Development and issuance of monthly invoices

**DESCRIPTION AND ESTIMATED COST OF SERVICES  
RANSOM ROAD (PHASE I) FROM PILGRIM TO WILLIAMS WAY  
FORT BEND COUNTY, TEXAS  
Page 3 of 4**

<b>Description</b>	<b>Est. Quan.</b>	<b>Unit</b>	<b>Rate</b>	<b>Amount</b>
<b>Earthwork Monitoring and Testing</b>				
Atterberg Limits	10	Each	\$53.00	\$530.00
Moisture Content	10	Each	\$8.00	\$80.00
Percent Passing #200 Sieve	10	Each	\$41.00	\$410.00
Moisture/Density Relation - Standard	10	Each	\$175.00	\$1,750.00
Miscellaneous Laboratory Testing	1	Est	\$1,500.00	\$1,500.00
NICET III, HMA II Engineering Technician, RT	480	Hour	\$56.00	\$26,880.00
NICET III, HMA II Engineering Technician, OT	240	Hour	\$84.00	\$20,160.00
Cement Treated Sand Cylinders - Mold & Test	20	Each	\$61.00	\$1,220.00
Lime Determination - 4 Point PI Method	3	Each	\$208.00	\$624.00
Lime Determination - pH Method	0	Each	\$202.00	\$0.00
Lime Slurry - Percent Solids	20	Each	\$32.00	\$640.00
Nuclear Density Device	720	Hour	\$9.00	\$6,480.00
Vehicle Charge	480	Hour	\$7.50	\$3,600.00
<b>Earthwork Subtotal</b>				<b>\$63,874.00</b>
<b>Concrete Monitoring and Testing</b>				
NICET III Engineering Technician, RT	240	Hour	\$56.00	\$13,440.00
NICET III Engineering Technician, OT	46	Hour	\$84.00	\$3,864.00
Compressive Strength Cylinders - Pavement (Set of 4 per 150 cy)	254	Each	\$15.00	\$3,810.00
Concrete Coring (4" dia. to 8" Thickness) 1 core per 500 ft of length	64	Each	\$90.00	\$5,760.00
Core Measurement	64	Each	\$11.00	\$704.00
Concrete Coring - Minimum Charge	0	Each	\$290.00	\$0.00
Concrete Core Preparation - Cap & Test	64	Each	\$67.00	\$4,288.00
Vehicle Charge	228	Hour	\$7.50	\$1,710.00
<b>Concrete Subtotal</b>				<b>\$33,576.00</b>

Paradigm Consultants, Inc.

Proposal No. 10-231

**DESCRIPTION AND ESTIMATED COST OF SERVICES  
RANSOM ROAD (PHASE I) FROM PILGRIM TO WILLIAMS WAY  
FORT BEND COUNTY, TEXAS**

Page 4 of 4

<b>Asphaltic Concrete and Asphalt Stabilized Base Inspection and Testing</b>						
NICET III, HMA II Engineering Technician, RT	40	Hour	\$56.00	\$2,240.00		
NICET III, HMA II Engineering Technician, OT	10	Hour	\$84.00	\$840.00		
Extraction/Gradation (TEX 210-F)	3	Each	\$174.00	\$522.00		
Specific Gravity (D-2041 / TEX-201F)	3	Each	\$62.00	\$186.00		
Mold Lab Specimens	3	Set of 3	\$54.00	\$162.00		
Bulk Specific Gravity of Lab Molded or Core	3	Set of 3	\$46.00	\$138.00		
Maximum Theoretical Specific Gravity	3	Each	\$78.00	\$234.00		
HVEEM Stability	3	Set of 3	\$82.00	\$246.00		
LA Abrasion	2	Each	\$179.00	\$358.00		
Miscellaneous Laboratory Testing	1	Est	\$2,000.00	\$2,000.00		
Nuclear Density Device	50	Hour	\$9.00	\$450.00		
Asphalt Coring (4" Diameter to 6" Thickness)	10	Each	\$80.00	\$800.00		
Asphalt Base Coring	10	Each	\$80.00	\$800.00		
Asphalt Core Measurement	10	Each	\$8.00	\$80.00		
Vehicle Charge	40	Hour	\$7.50	\$300.00		\$9,356.00
<b>Asphalt Inspection and Testing Subtotal</b>						
<b>Engineering Services</b>						
Principal	20	Hour	\$167.00	\$3,340.00		
Senior Engineer	100	Hour	\$123.00	\$12,300.00		
CMT Project Manager	158	Hour	\$76.00	\$12,008.00		
<b>Engineering Subtotal</b>						
						\$27,648.00
<b>TOTAL ESTIMATED TESTING COST</b>						
						<b>\$134,454.00</b>

Paradigm Consultants, Inc.

Proposal No. 10-231