

- 2.03 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 III
TERMINATION

- 3.01 County may terminate this Agreement at any time by providing thirty (30) days written notice to the Contractor.
- 3.02 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.
- 3.03 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.
- 3.04 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.
- 3.05 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 IV
LIABILITY INSURANCE

- 4.01 During the period of this Agreement, Contractor shall maintain, at its expense, insurance with limits no less than those prescribed below with a carrier having a rating with A.M. Best & Co of A-VII or better:
- A. General Liability (including Contractual Liability):
 - Bodily Injury and Property Damage \$1,000,000.00
 - Aggregate \$2,000,000.00
 - B. Automobile Liability:
 - Bodily Injury and Property Damage \$1,000,000.00
 - Limit per Occurrence
 - C. Worker's Compensations Statutory + Limit Employer's Liability \$1,000,000.00
 - D. Professional Liability insurance with limits not less than \$1,000,000 each claim/annual aggregate.
- 4.02 With respect to the required insurances listed in Section 4.01, Contractor shall, if allowed by law and the insurance carrier:
- A. Name Fort Bend County as additional insured as their interests may appear, with the exception of worker's compensation insurance and professional liability insurance;

- B. Provide County a waiver of subrogation regarding Contractor's worker's compensation insurance;
 - C. Provide County with a thirty (30) day advance written notice of cancellation or material change to said insurance; and,
 - D. Provide County with Certificates of Insurance evidencing required coverages upon acceptance of this Agreement by Commissioners Court.
- 4.03 The policies specified in Section 4.01(A-C) shall name Fort Bend County as an additional insured. Furthermore, the Workers' Compensation and Liability Insurance carriers shall grant a waiver of subrogation in Fort Bend County's favor.
- 4.04 If required coverage is written on a claims-made basis, Contractor warrants that any retroactive date applicable to coverage under the policy precedes the effective date of this Agreement 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 Agreement is completed.
- 4.04 Contractor shall not commence any portion of the work under this Agreement until it has obtained the insurance required herein and certificates of such insurance have been filed with and approved by Fort Bend County.
- 4.05 Approval of the insurance by County shall not relieve or decrease the liability of the Contractor.

SECTION V
NOTICE

- 5.01 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.
- 5.02 If mailed, any notice or communication shall be deemed to be received three days after the date of deposit in the United States Mail.
- 5.03 Unless otherwise provided in this Agreement, all notices shall be delivered to the following addresses:

A. If to the Contractor:

Kelly R. Kaluza & Associates, Inc.
3014 Avenue I
Rosenberg, Texas 77471
Telephone No. 281-341-0808
Fax No. 281-341-6333

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

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

SECTION VI LIMIT OF APPROPRIATION

- 6.01 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 \$381,600.00, specifically allocated to fully discharge any and all liabilities which may be incurred by County.
- 6.02 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 \$381,600.00.

SECTION VII SUCCESSORS AND ASSIGNS

- 7.01 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.
- 7.02 Neither County nor Contractor shall assign, sublet or transfer its or his interest in this Agreement without the prior written consent of the other.
- 7.03 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 VIII PUBLIC CONTACT

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

SECTION IX
COMPLIANCE AND STANDARDS

Contractor shall render the services hereunder in accordance with generally accepted standards of Contractors practicing in Fort Bend County, Texas applicable thereto and shall use that customary 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 X
OWNERSHIP OF DOCUMENTS

- 10.01 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 (deliverables).
- 10.02 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.
- 10.03 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.
- 10.04 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.
- 10.05 The documents referenced in this Section are not intended or presented by the Contractor to be suitable for reuse by County or others on extensions of this Project or on other unrelated projects.
- 10.06 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 XI
INDEMNIFICATION

- 11.01 **CONTRACTOR SHALL SAVE HARMLESS COUNTY FROM AND AGAINST CLAIMS, LIABILITY, AND EXPENSES, INCLUDING REASONABLE ATTORNEYS FEES, ARISING FROM ACTIVITIES OF THE CONTRACTOR, ITS AGENTS, CONTRACTORS OR EMPLOYEES, PERFORMED UNDER THIS AGREEMENT THAT RESULT FROM THE NEGLIGENT ACT, ERROR, OR OMISSION OF THE CONTRACTOR OR ANY OF CONTRACTOR'S AGENTS, SERVANTS OR EMPLOYEES.**
- 11.02 **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 ACTIVITIES BY THE CONTRACTOR, ITS AGENTS, CONTRACTORS OR EMPLOYEES.**

SECTION XII
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 XIII
MISCELLANEOUS

- 13.01 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.
- 13.02 Nothing in this Agreement shall create any rights or obligations in any party who is not a signatory to this Agreement.
- 13.03 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.
- 13.04 If there is a conflict between this Agreement and any Exhibit, the provisions of this Agreement shall prevail.

EXECUTION PAGE TO FOLLOW

SECTION XIV
EXECUTION

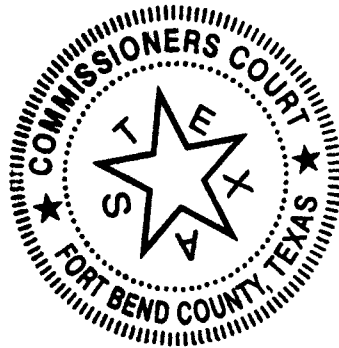
This Agreement shall not become effective until executed by County.

FORT BEND COUNTY:

Grady Prestage
Grady Prestage, Commissioner, Precinct Two
Presiding Officer of Commissioners Court

10-11-2011
Date

Attest:
Dianne Wilson
Dianne Wilson, County Clerk



Approved:
DeJesse Hegemier
DeJesse Hegemier, County Engineer

CONTRACTOR: Kelly R. Kaluza & Associates, Inc.

Kelly Kaluza
Kelly R. Kaluza, P.E., President

10/10/11
Date

MER: Kelly Kaluza. Harlem Road

AUDITOR'S CERTIFICATE

I hereby certify that funds are available in the amount of \$381,600.00 to accomplish and pay the obligation of the Fort Bend County under this Agreement.

Ed Sturdivant
Ed Sturdivant, Fort Bend County Auditor

Exhibit A: Contractor's Proposal and rates dated August 1, 2011

Exhibit A

KELLY R. KALUZA & ASSOCIATES, INC.
Consulting Engineers & Surveyors
Engineering Firm No. F-1339
3014 Avenue L, Rosenberg, Texas 77471
(281) 341-0808 # FAX (281) 341-6333

AUGUST 1, 2011

**FORT BEND COUNTY
HARLEM ROAD IMPROVEMENTS**

Limits:

Northern: South Boundary of Travis High School
Southern: North Boundary of Middle School No. 14

Proposed Improvements:

Project consists of approximately 8,000 LF of four-lane thoroughfare and related auxiliary lanes. Roadway cross-section may vary from concrete curb and gutter with storm sewer (through the prison unit) to open ditch. County constructed, asphalt boulevard, with and or without raised curb median. Project will include a new bridge or modification of the existing bridge depending on the roadway cross-section.

Project Approach:

An alignment survey (boundary and topographic) will be completed within and directly adjoining the Project. Existing road and other improvements will be located within the limits of the Project. Through the Jester Unit Building Complex, improvements within approximately one hundred fifty feet of the existing roadway will be located. In addition to the survey, the Roadway Alignment Study will be the focus of the initial work completed on the Project. Three alternative cross-sections and road alignments will be considered. Preliminary right-of-way and roadway plans will be developed for the Alternatives. The Recommended Alternative, as determined working with the County, will be presented by the County to the Texas Department of Corrections (TDC) and, if required, to the Texas General Land Office (GLO).

Once the TDC signs off on the proposed Roadway Alignment Plan, the Project will continue with the completion of the Preliminary Project Design, including project construction cost estimate. It is anticipated that the Final Project Design will be completed based on County approval of the preliminary work and when the right-of-way has been acquired from TDC. It is anticipated that the County Road and Bridge Department will construct significant portions of the roadway. The bridge at Oyster Creek and any concrete streets will be publicly bid by the County, separate from the County constructed improvements.

PROJECT BUDGET SUMMARY

	Budget	Manhours	
ROADWAY ALIGNMENT STUDY TOTAL	\$101,000	998	26%
PRELIMINARY PROJECT DESIGN TOTAL	\$105,300	752	28%
FINAL PROJECT DESIGN TOTAL	\$155,300	1,058	41%
CONSTRUCTION SERVICES TOTAL	\$20,000	(T&M)	5%
PROJECT TOTAL	\$381,600		100%

Description	Budget	Principal \$150	Project Engineer \$135	Project Surveyor \$125	Engineering Tech \$80	Survey Tech \$80	CAD Technician \$70	Survey Crew (4) \$150	Support Staff \$60
I. ROADWAY ALIGNMENT STUDY									
A. Survey									
1 Gather ROW data and review	\$3,800		8		16	12			8
2 Locate existing ROW boundary	\$5,700	2		4		24		20	
3 Establish Project Baseline and Control	\$7,000			4		36		24	
4 Field survey of existing improvements & topography	\$17,600	2		4		24	20	90	
5 Prepare plan & profile of existing conditions	\$10,400		8	4	20	20	80		
6 Identify preliminary ROW parcels	\$4,400	2	8	4		28			4
	\$48,900	6	24	20	36	144	100	134	12
B. Schematic Roadway Layout									
1 Collect utility and available information	\$3,800				20	20			10
2 Develop alternative horizontal alignments through the Jester Prison Unit compound (3 maximum)	\$8,700	4	20		40	10	20		
3 Staff Field visits (3 maximum)	\$4,400	10	12		8	8			
4 Create roadway cross section	\$2,800	4	6				20		
5 Recommend ROW configuration	\$3,300	4	8	8	8				
6 Determine the alignment for presentation to TDC	\$3,100	4	8		4	8			8
7 Prepare preliminary drawings of Recommended Alignment	\$6,100	2	4	4	30	24			8
8 Assist FBC in presentation to TDC	\$4,400	4	24		4				4
9 Revise Preliminary Plan to incorporate TDC comment	\$3,100		4	4	16	8			2
	\$39,700	32	86	16	130	78	40	0	32

Description	Budget	Principal \$150	Project Engineer \$135	Project Surveyor \$125	Engineering Tech \$80	Survey Tech \$80	CAD Technician \$70	Survey Crew (4) \$150	Support Staff \$60
C. Project Administration and Coordination									
1 Project Meetings (2 each)	\$3,000	4	8	4	4	2	2		4
2 Project Administration	\$1,000	2	4						2
3 Coordination with Fort Bend County	\$1,900	2	12						
4 Coordination with Fort Bend County Drainage District	\$300				4				
5 Coordination with TDC & GLO	\$3,600		8	8	4	8	4		4
6 Coordination with Utilities	\$1,400		2		8				8
	\$11,200	8	34	12	20	10	6	0	18
Reimbursable Expenses - Printing, etc.	\$1,200								
ROADWAY ALIGNMENT STUDY TOTAL	\$101,000	38	144	48	186	232	148	134	62

Description	Budget	Principal \$150	Project Engineer \$135	Project Surveyor \$125	Engineering Tech \$80	Survey Tech \$80	CAD Technician \$70	Survey Crew (4) \$150	Support Staff \$60
II. PRELIMINARY PROJECT DESIGN Completed for Recommended Alternative Only Design of Detention facilities is not included									
A. Preliminary Project Design									
1 Finalize Horizontal Layout	\$7,000	2	8	8	20	20	20		
2 Vertical Alignment	\$5,300		16		30		10		
3 Typical Roadway Cross-sections	\$900		2		4		4		
4 Conceptual drainage computation	\$2,300	2	10		8				
5 Preliminary drainage facilities design	\$1,700		8		4		4		
6 Identify probable utility and pipeline conflicts	\$1,700		4		8				8
7 Define final ROW parcels	\$3,400	2	4	4	8	8	8		4
	\$22,300	6	52	12	82	28	46	0	12
B. Preliminary Engineering Report									
1 Assemble Data	\$2,300		2		12		8		8
2 Compose Letter Report	\$3,500	2	20						8
3 Prepare Cost Estimate	\$4,900	2	8	24					8
4 Complete Preliminary Project Plans	\$8,800		20		30	20	30		
5 Edit and Produce Draft Report	\$1,900	2	8						8
6 Gather Review Comments from Agencies	\$2,200	4	12						
7 Revise and Finalize PER	\$3,400	2	8		8	4	8		8
	\$27,000	12	78	24	50	24	46	0	40
C. Survey									
1 Finalize ROW Map	\$2,300			8		16			
2 Prepare Field Note Descriptions & Parcel Maps	\$4,900			12		16	24		8
3 Coordinate with TDC & GLO	\$1,600			8		4			4
4 Set Property Corners	\$3,600			2		4		20	
	\$12,400	0	0	30	0	40	24	20	12

Description	Budget	Principal \$150	Project Engineer \$135	Project Surveyor \$125	Engineering Tech \$80	Survey Tech \$80	CAD Technician \$70	Survey Crew (4) \$150	Support Staff \$60
D. Project Administration and Coordination									
1 Project Meetings (2 each)	\$2,600	4	6	4	2	2	2		4
2 Project Administration	\$1,400	4	4						4
3 Coordinate design with Subconsultant	\$1,300		4		4	4			2
4 Coordination with Fort Bend County	\$1,400		8		4				
5 Coordination with Fort Bend County Drainage District	\$900		4		4				
6 Coordination with TDC & GLO	\$1,800		2	8	4				4
7 Coordination with Utilities	\$2,000		2		8	4	4		8
	\$11,400	8	30	12	26	10	6	0	22
E. Subconsultants									
1 Preliminary Bridge Design	\$8,500								
2 Oyster Creek Hydraulic Study	\$15,700								
3 Geotechnical Investigations	\$6,800								
	\$31,000								
Reimbursable Expenses - Printing, etc.	\$1,200								
PRELIMINARY PROJECT DESIGN TOTAL	\$105,300	26	160	78	158	102	122	20	86

Description	Budget	Principal \$150	Project Engineer \$135	Project Surveyor \$125	Engineering Tech \$80	Survey Tech \$80	CAD Technician \$70	Survey Crew (4) \$150	Support Staff \$60
III. FINAL PROJECT DESIGN									
Harlem Road Improvements by Road & Bridge Bridge Project by Contractor (Bid Documents) Detention facilities design not included Construction Traffic Control not included									
A. Drainage Design									
1 Confirm drainage area configurations	\$1,200		4		8				
2 Compute design storm runoff	\$1,100		8						
3 Layout drainage system	\$1,700		8		8				
4 Size drainage components	\$2,700		20						
5 Finalize drainage computations	\$2,000		10		8				
	\$8,700	0	50	0	24	0	0	0	0
B. Roadway Plan Preparation									
1 Plan & Profile Drawings	\$14,200		20		80	20	50		
2 Project Control, Baseline & Benchmarks	\$4,700		2	8	10	30			4
3 Driveway & Intersection Layouts	\$4,500		10		30		10		
4 Roadway Cross-sections	\$2,600		4		8		20		
5 Storm Water Control Plan (NOI & SWPPP by Others)	\$2,100		4		12		8		
6 Other Plan Sheets	\$11,000		20		60	12	30		8
7 Coordinate with Utilities and Pipeline Adjustments	\$3,200		8		20				8
	\$42,300	0	68	8	220	62	118	0	20
C. Quality Assurance / Quality Control									
1 Confirm design components from PER	\$2,100	4	4	4	4				2
2 Submit Plans for 50% Review	\$3,400	4	8		10		10		4
3 Submit Plans & Specifications for 95 % Review	\$3,400	4	8		10		10		4
4 Coordinate Subconsultant Design Comments	\$2,700	4	12						8
5 Finalize Construction Plans	\$7,900	8	20		30		20		4
6 Finalize Technical Specifications	\$1,900	2	8						8
7 Field Visits (estimated 2)	\$3,100	4	8	4	8	4			
8 Update Cost Estimate (Based on Road & Bridge Costs)	\$8,700	2	8	40	12		12		8
	\$33,200	32	76	48	74	4	52	0	38

Description	Budget	Principal \$150	Project Engineer \$135	Project Surveyor \$125	Engineering Tech \$80	Survey Tech \$80	CAD Technician \$70	Survey Crew (4) \$150	Support Staff \$60
D. Project Administration and Coordination									
1 Project Meetings (4 each)	\$4,400	4	12	4	8	4	4		8
2 Project Administration	\$3,800	4	20						8
3 Coordination with Fort Bend County	\$5,600	8	20	4	8	4	4		
4 Coordination with Fort Bend County Drainage District	\$1,700		8		8				
5 Coordination with Utilities & Pipelines	\$2,100		4		20				
	\$17,600	16	64	8	44	8	8	0	16
E. Subconsultants									
1 Bridge Design	\$50,000								
	\$50,000								
Reimbursable Expenses - Printing, etc.	\$3,500								
FINAL PROJECT DESIGN TOTAL	\$135,500	48	258	64	362	74	178	0	74

IV. CONSTRUCTION SERVICES TOTAL (Assist Road & Bridge Department and Bridge Construction Services)	\$20,000	Budget for Services to be performed on Time & Material Basis							
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