

STATE OF TEXAS §
 §
 COUNTY OF FORT BEND §

**AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES FOR
 REPAIR OF WILLOW FORK OF BUFFALO BAYOU AND CANE ISLAND BRANCH
 SOQ 17-086**

THIS AGREEMENT is made and entered into by and between the Fort Bend County Drainage District, (hereinafter "District"), a body corporate and politic under the laws of the State of Texas, and M&E Consultants, LLC (hereinafter "Consultant"), a company authorized to conduct business in the State of Texas.

WITNESSETH

WHEREAS, District desires that Consultant professional engineering consulting services related to a project that involves repair of creek bank due to slope failure from the April 2016 floods at Willow Fort of Buffalo Bayou and Cane Island Branch in Fort Bend County, Texas, (hereinafter "Services") pursuant to SOQ 17-086; and

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

NOW, THEREFORE, in consideration of the mutual covenants and conditions set forth below, the parties agree as follows:

AGREEMENT

Section 1. Scope of Services

Consultant shall render Services to District as defined in the Plan of Work and relevant parts of the Consultant's response to District's Request for Qualifications attached hereto as Exhibit A and incorporated herein for all purposes.

Section 2. Personnel

2.1 Consultant represents that it presently has, or is able to obtain, adequate qualified personnel in its employment for the timely performance of the Scope of Services required under this Agreement and that Consultant shall furnish and maintain, at its own expense, adequate and sufficient personnel, in the opinion of District, to perform the Scope of Services when and as required and without delays.

2.2 All employees of Consultant shall have such knowledge and experience as will enable them to perform the duties assigned to them. Any employee of Consultant who, in the

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opinion of District, is incompetent or by his conduct becomes detrimental to the project shall, upon request of District, immediately be removed from association with the project.

Section 3. Compensation and Payment

3.1 Consultant's fees shall be calculated at the rates set forth in the attached Exhibit A. The Maximum Compensation for the performance of Services described within Exhibit A is a fee in the amount of one million two hundred eighty-five thousand nine hundred fourteen dollars and no/100 (\$1,285,914.00). In no case shall the amount paid by District under this Agreement exceed the Maximum Compensation without written amendment executed by the parties.

3.2 All performance of the Scope of Services by Consultant including any changes in the Scope of Services and revision of work satisfactorily performed will be performed only when approved in advance and authorized by District.

3.3 District will pay Consultant based on the following procedures: Upon completion of the tasks identified in the Scope of Services except for Construction Inspection Services, Consultant shall submit to District staff designated by the Chief Engineer, one (1) electronic (pdf) and/or one (1) original invoice showing the amounts due for services performed in a form acceptable to District. Consultant shall submit invoices for Construction Inspection Services monthly based on a percentage of the work completed. District shall review such invoices and approve them within thirty (30) calendar days with such modifications as are consistent with this Agreement and forward same to the Fort Bend County Auditor for processing. District shall pay each such approved invoice within thirty (30) calendar days. District reserves the right to withhold payment pending verification of satisfactory work performed.

Section 4. Limit of Appropriation

4.1 Consultant clearly understands and agrees, such understanding and agreement being of the absolute essence of this Agreement, that District shall have available the total maximum sum of one million two hundred eighty-five thousand nine hundred fourteen dollars and no/100 (\$1,285,914.00), specifically allocated to fully discharge any and all liabilities District may incur.

4.2 Consultant does further understand and agree, said understanding and agreement also being of the absolute essence of this Agreement, that the total maximum compensation that Consultant may become entitled to and the total maximum sum that District may become liable to pay to Consultant shall not under any conditions, circumstances, or interpretations thereof exceed one million two hundred eighty-five thousand nine hundred fourteen dollars and no/100 (\$1,285,914.00).

Section 5. Time of Performance

The time for performance of the Scope of Services by Consultant shall begin with receipt of the Notice to Proceed from District and end no later than three hundred sixty-five (365)

calendar days thereafter. Consultant shall complete the tasks described in the Scope of Services within this time or within such additional time as may be extended by the District.

Section 6. Modifications and Waivers

6.1 The parties may not amend or waive this Agreement, except by a written agreement executed by both parties.

6.2 No failure or delay in exercising any right or remedy or requiring the satisfaction of any condition under this Agreement, and no course of dealing between the parties, operates as a waiver or estoppel of any right, remedy, or condition.

6.3 The rights and remedies of the parties set forth in this Agreement are not exclusive of, but are cumulative to, any rights or remedies now or subsequently existing at law, in equity, or by statute.

Section 7. Termination

7.1 Termination for Convenience – District may terminate this Agreement at any time upon thirty (30) days written notice.

7.2 Termination for Default

7.2.1 District may terminate the whole or any part of this Agreement for cause in the following circumstances:

7.2.1.1 If Consultant fails to perform services within the time specified in the Scope of Services or any extension thereof granted by the District in writing;

7.2.1.2 If Consultant materially breaches any of the covenants or terms and conditions set forth in this Agreement or fails to perform any of the other provisions of this Agreement or so fails to make progress as to endanger performance of this Agreement in accordance with its terms, and in any of these circumstances does not cure such breach or failure to District's reasonable satisfaction within a period of ten (10) calendar days after receipt of notice from District specifying such breach or failure.

7.2.2 If, after termination, it is determined for any reason whatsoever that Consultant was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the District in accordance with Section 7.1 above.

7.3 Upon termination of this Agreement, District shall compensate Consultant in accordance with Section 3, above, for those services which were provided under this Agreement prior to its termination and which have not been previously invoiced to District. Consultant's final invoice for said services will be presented to and paid by District in the same manner set forth in Section 3 above.

7.4 If District terminates this Agreement as provided in this Section, no fees of any type, other than fees due and payable at the Termination Date, shall thereafter be paid to Consultant.

Section 8. Ownership and Reuse of Documents

All documents, data, reports, research, graphic presentation materials, etc., developed by Consultant as a part of its work under this Agreement, shall become the property of District upon completion of this Agreement, or in the event of termination or cancellation thereof, at the time of payment under Section 3 for work performed. Consultant shall promptly furnish all such data and material to District on request. If the District modifies and/or uses the documents for any reason other than their intended use, without Consultant's authorization, the Consultant shall be released from any liability as a result of such action.

Section 9. Inspection of Books and Records

Consultant will permit District, or any duly authorized agent of District, to inspect and examine the books and records of Consultant for the purpose of verifying the amount of work performed under the Scope of Services. District's right to inspect survives the termination of this Agreement for a period of four years.

Section 10. Insurance

10.1 Prior to commencement of the Services, Consultant shall furnish District 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 District. Consultant shall provide certified copies of insurance endorsements and/or policies if requested by District. Consultant shall maintain such insurance coverage from the time Services commence until Services are completed and provide replacement certificates, policies and/or endorsements for any such insurance expiring prior to completion of Services. Consultant shall obtain such insurance written on an Occurrence form (or a Claims Made form for Professional Liability Insurance) from such companies having Best's rating of A/VII or better, licensed or approved to transact business in the State of Texas, and shall obtain such insurance of the following types and minimum limits:

10.1.1 Workers' Compensation insurance. Substitutes to genuine Workers' Compensation Insurance will not be allowed.

10.1.2 Employers' Liability insurance with limits of not less than \$1,000,000 per injury by accident, \$1,000,000 per injury by disease, and \$1,000,000 per bodily injury by disease.

10.1.3 Commercial general liability insurance with a limit of not less than \$1,000,000 each occurrence and \$2,000,000 in the annual aggregate. Policy shall cover liability for bodily injury, personal injury, and property damage and products/completed operations arising out of the business operations of the policyholder.

10.1.4 Business Automobile Liability insurance with a combined Bodily Injury/Property Damage limit of not less than \$1,000,000 each accident. The policy shall cover liability arising from the operation of licensed vehicles by policyholder.

10.1.5 Professional Liability insurance may be on a Claims Made form with limits not less than \$1,000,000.

10.2 District and the members of Commissioners Court shall be named as additional insured to all required coverage except for Workers' Compensation and Professional Liability. All Liability policies including Workers' Compensation written on behalf of Consultant, excluding Professional Liability, shall contain a waiver of subrogation in favor of District and members of Commissioners Court.

10.3 If required coverage is written on a claims-made basis, Consultant warrants that any retroactive date applicable to coverage under the policy precedes the effective date of the contract; and that continuous coverage will be maintained or an extended discovery period will be exercised for a period of 2 years beginning from the time that work under the Agreement is completed.

Section 11. Indemnity

11.1 CONSULTANT SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS DISTRICT AGAINST ALL LOSSES, LIABILITIES, CLAIMS, CAUSES OF ACTION, AND OTHER EXPENSES, INCLUDING REASONABLE ATTORNEYS FEES, ARISING FROM ACTIVITIES OF CONSULTANT, ITS AGENTS, SERVANTS OR EMPLOYEES, PERFORMED UNDER THIS AGREEMENT THAT RESULT FROM THE NEGLIGENT ACT, ERROR, OR OMISSION OF CONSULTANT OR ANY OF CONSULTANT'S AGENTS, SERVANTS OR EMPLOYEES.

11.2 Consultant shall timely report all such matters to District and shall, upon the receipt of any such claim, demand, suit, action, proceeding, lien or judgment, not later than the fifteenth day of each month; provide District with a written report on each such matter, setting forth the status of each matter, the schedule or planned proceedings with respect to each matter and the cooperation or assistance, if any, of District required by Consultant in the defense of each matter.

11.3 Consultant's duty to defend, indemnify and hold District harmless shall be absolute. It shall not abate or end by reason of the expiration or termination of the Agreement unless otherwise agreed by District in writing. The provisions of this section shall survive the termination of the Agreement and shall remain in full force and effect with respect to all such matters no matter when they arise.

11.4 In the event of any dispute between the parties as to whether a claim, demand, suit, action, proceeding, lien or judgment appears to have been caused by or appears to have arisen out of or in connection with acts or omissions of Consultant, Consultant shall nevertheless fully defend such claim, demand, suit, action, proceeding, lien or judgment until and unless there is a determination by a court of competent jurisdiction that the acts and omissions of Consultant are not at issue in the matter.

11.5 Consultant's indemnification shall cover, and Consultant agrees to indemnify District, in the event District is found to have been negligent for having selected Consultant to perform the work described in this request.

11.6 The provision by Consultant of insurance shall not limit the liability of Consultant under this Agreement.

11.7 Consultant shall cause all trade contractors and any other contractor who may have a contract to perform construction or installation work in the area where work will be performed under this request, to agree to indemnify District and to hold it harmless from all claims for bodily injury and property damage that arise may from said Contractor's operations. Such provisions shall be in form satisfactory to District.

11.8 Loss Deduction Clause - District shall be exempt from, and in no way liable for, any sums of money which may represent a deductible in any insurance policy. The payment of deductibles shall be the sole responsibility of Consultant and/or trade contractor providing such insurance.

Section 12. Confidential and Proprietary Information

12.1 Consultant acknowledges that it and its employees or agents may, in the course of performing their responsibilities under this Agreement, be exposed to or acquire information that is confidential to District. Any and all information of any form obtained by Consultant or its employees or agents from District in the performance of this Agreement shall be deemed to be confidential information of District ("Confidential Information"). Any reports or other documents or items (including software) that result from the use of the Confidential Information by Consultant shall be treated with respect to confidentiality in the same manner as the Confidential Information. Confidential Information shall be deemed not to include information that (a) is or becomes (other than by disclosure by Consultant) publicly known or is contained in a publicly available document; (b) is rightfully in Consultant's possession without the obligation of nondisclosure prior to the time of its disclosure under this Agreement; or (c) is independently developed by employees or agents of Consultant who can be shown to have had no access to the Confidential Information.

12.2 Consultant agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Consultant uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever other than the provision of Services to District hereunder, unless disclosure is required by law or court order, and to advise each of its employees and agents of their obligations to keep Confidential Information confidential. Consultant shall use its best efforts to assist District in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limitation of the foregoing, Consultant shall advise District immediately in the event Consultant learns or has

reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Agreement and Consultant will at its expense cooperate with District in seeking injunctive or other equitable relief in the name of District or Consultant against any such person. Consultant agrees that, except as directed by District, Consultant will not at any time during or after the term of this Agreement disclose, directly or indirectly, any Confidential Information to any person, and that upon termination of this Agreement or at District's request, Consultant will promptly turn over to District all documents, papers, and other matter in Consultant's possession which embody Confidential Information; provided however, that Consultant may retain one (1) copy of all work produced which incorporates Confidential Information for internal record-keeping purposes, subject to the terms of this Agreement.

12.3 Consultant acknowledges that a breach of this Section, including disclosure of any Confidential Information, or disclosure of other information that, at law or in equity, ought to remain confidential, will give rise to irreparable injury to District that is inadequately compensable in damages. Accordingly, District may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. Consultant acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interest of District and are reasonable in scope and content.

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

12.5 Consultant expressly acknowledges that District 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, District 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 District by Consultant shall not be disclosed to any third party, except as directed by the Texas Attorney General in response to a request for such under the Texas Public Information Act, which provides for notice to the owner of such marked information and the opportunity for the owner of such information to notify the Attorney General of the reasons why such information should not be disclosed. The terms and conditions of the Agreement are not proprietary or confidential information.

Section 13. Independent Consultant

13.1 In the performance of work or services hereunder, Consultant shall be deemed an independent Consultant, and any of its agents, employees, officers, or volunteers performing work required hereunder shall be deemed solely as employees of Consultant or, where permitted, of its subcontractors.

13.2 Consultant and its agents, employees, officers, or volunteers shall not, by performing work pursuant to this Agreement, be deemed to be employees, agents, or servants of District and shall not be entitled to any of the privileges or benefits of District employment.

Section 14. Notices

14.1 Each party giving any notice or making any request, demand, or other communication (each, a "Notice") pursuant to this Agreement shall do so in writing and shall use one of the following methods of delivery, each of which, for purposes of this Agreement, is a writing: personal delivery, registered or certified mail (in each case, return receipt requested and postage prepaid), or nationally recognized overnight courier (with all fees prepaid).

14.2 Each party giving a Notice shall address the Notice to the receiving party at the address listed below or to another address designated by a party in a Notice pursuant to this Section:

District: Fort Bend Drainage District
Attn: Chief Engineer
301 Jackson Street
Richmond, Texas 77469

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

Consultant: M&E Consultants, LLC
Attn: Jerry Ince
10571 Stallion Road
Heidenheimer, Texas 76533

14.3 A Notice is effective only if the party giving or making the Notice has complied with subsections 14.1 and 14.2 and if the addressee has received the Notice. A Notice is deemed received as follows:

14.3.1 If the Notice is delivered in person, or sent by registered or certified mail or a nationally recognized overnight courier, upon receipt as indicated by the date on the signed receipt.

14.3.2 If the addressee rejects or otherwise refuses to accept the Notice, or if the Notice cannot be delivered because of a change in address for which no Notice was given, then upon the rejection, refusal, or inability to deliver.

Section 15. Compliance with Laws

Consultant shall comply with all federal, state, and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals

in any matter affecting the performance of this Agreement, including, without limitation, Worker's Compensation laws, minimum and maximum salary and wage statutes and regulations, licensing laws and regulations. When required by District, Consultant shall furnish District with certification of compliance with said laws, statutes, ordinances, rules, regulations, orders, and decrees above specified.

Section 16. Performance Representation

16.1 Consultant represents to District that Consultant has the skill and knowledge ordinarily possessed by well-informed members of its trade or profession practicing in the greater Houston metropolitan area and Consultant 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 the local professional standard of care.

16.2 Consultant will materially conform to all requirements and specifications contained in the attached Attachment A.

Section 17. Federal Clauses - This project is funded utilizing federal funds from the National Resources Conservation Service Division of the U.S. Department of Agriculture (NRCS). Therefore, the Consultant must meet the following federal requirements. These requirements extend to all third party Consultants and their contracts at every tier and their subcontracts at every tier that meet or exceed the required acquisition threshold. The following federal clauses apply. The Consultant shall require that the clauses below be included in each covered transaction at any tier:

17.1 Civil Rights Requirements. Consultant will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color, religion, sex and national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681 1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act or 1912 (42 U.S.C. §§290 dd-3 and 290 ee(3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

17.2 Clean Air Act and Clean Water Act Requirements. The Consultant 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. and the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The Consultant agrees to report each violation to the District and understands and agrees that the District will, in turn, report each violation as required to assure notification to the Natural Resource Conservation Service Division of the USDA (NRCS). The Consultant agrees it will not use any violating facilities which are in violation of the Clear Air or Clean Water Acts. 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 NRCS. The Consultant also agrees to include these requirements in each subcontract related to this Agreement.

17.3 Energy Policy and Conservation Act. Consultant must adhere to mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201).

17.4 Government-wide Debarment and Suspension. The Consultant shall comply and facilitate compliance with the U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Government wide Debarment and Suspension (Non-procurement)," 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).

17.5 Government-Wide Requirements for Drug-Free Workplace. Consultant shall comply with the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D; 41 U.S.C. 701 et seq.); and must comply with drug-free workplace requirements in Subpart B of part 421, which adopts the Government wide implementation (2CFR part 182) of sec. 5152-5158 of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D; 41 U.S.C. 701-707).

17.6 Trafficking in Persons. Consultant agrees that it and its employees may not: (1) engage in severe forms of trafficking in persons during the period of time that this Agreement is in effect, (2) procure a commercial sex act during the period of time that this Agreement is in effect, or (3) use forced labor in the performance of this Agreement or any sub agreements thereunder.

17.7 Resource Recovery Act and Recovered Materials. The Consultant agrees to comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items

designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

17.8 Lobbying. Consultants 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." Consultant and 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 or any other award 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. Such disclosures are forwarded from tier to tier. It will include the language of this Section in the award documents for all subcontractors.

17.9 Notification of Disputes, Breaches, Defaults, or Other Litigation. Consultant understands that in the event District becomes aware of any allegation or a finding of fraud, waste, or misuse of funds received from the NRCS that is made against the Consultant, the District is required to immediately notify the NRCS of said allegation or finding and to continue to inform the NRCS of the status of any such on-going investigations. The District must also promptly refer to the NRCS any credible evidence that a principal, employee, agent, sub recipient, contractor, subcontractor, or other person has -- (1) submitted a claim for award funds that violates the False Claims Act; or (2) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving award funds. District must also immediately notify the NRCS in writing of any misappropriation of funds, fraud, theft, embezzlement, forgery, or any other serious irregularities indicating noncompliance with grant requirements. District must notify the local prosecutor's office of any possible criminal violations. District must immediately notify the NRCS in writing if a project or project personnel become involved in any litigation, whether civil or criminal, and the District must immediately forward a copy of any demand, notices, subpoenas, lawsuits, or indictments to the NRCS.

17.10 Breaches and Disputes Resolution. The parties shall attempt in good faith to resolve promptly any dispute arising out of or relating to the Agreement by negotiation between the parties. Disputes arising in the performance of this Contract that are not resolved by agreement of the parties shall be decided in writing by the authorized representative of the District. This decision shall be final and conclusive unless within ten [10] days from the date of receipt of its copy, the Consultant mails or otherwise furnishes a written appeal to the District. In connection with any such appeal, the Consultant shall be afforded an opportunity to be heard

and to offer evidence in support of its position. The decision of the District shall be binding upon the Consultant and the Consultant shall abide by the decision.

17.11 Additional Confidentiality Requirements. a. Activities performed under this Agreement may involve access to confidential and potentially sensitive information about governmental and landowner issues. The term "confidential information" means proprietary information or data of a personal nature about an individual, or information or data submitted by or pertaining to an organization. This information must not be disclosed without the prior written consent of NRCS. b. The Consultant's personnel will follow the rules and procedures of disclosure set forth in the Privacy Act of 1974, 5 U.S.C. Section 552a, and implementing regulations and policies with respect to systems of records determined to be subject to the Privacy Act. The Consultant's personnel must also comply with privacy of personal information relating to natural resources conservation programs in accordance with section 1244 of Title II of the Farm Security and Rural Investment Act of 2002 (Public Law 107-171). c. The Consultant agrees to comply with NRCS guidelines and requirements regarding the disclosure of information protected under Section 1619 of the Food Conservation, Energy Act of 2008 (PL 110-246), 7 U.S.C. 8791.

Section 18. Assignment

18.1 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.

18.2 Neither party may delegate any performance under this Agreement.

18.3 Any purported assignment of rights or delegation of performance in violation of this Section is void.

Section 19. Applicable Law

The laws of the State of Texas govern all disputes arising out of or relating to this Agreement. The parties hereto acknowledge that venue is proper in Fort Bend County, Texas, for all legal actions or proceedings arising out of or relating to this Agreement and waive the right to sue or be sued elsewhere. Nothing in the Agreement shall be construed to waive the District's sovereign immunity.

Section 20. Successors and Assigns

District and Consultant bind themselves and their successors, executors, administrators and assigns to the other party of this Agreement and to the successors, executors, administrators and assigns of the other party, in respect to all covenants of this Agreement.

Section 21. Third Party Beneficiaries

This Agreement does not confer any enforceable rights or remedies upon any person other than the parties.

Section 22. Severability

If any provision of this Agreement is determined to be invalid, illegal, or unenforceable, the remaining provisions remain in full force, if the essential terms and conditions of this Agreement for each party remain valid, binding, and enforceable.

Section 23. Publicity

Contact with citizens of Fort Bend County, media outlets, or governmental agencies shall be the sole responsibility of District. Under no circumstances whatsoever, shall Consultant release any material or information developed or received in the performance of the Services hereunder without the express written permission of District, except where required to do so by law.

Section 24. Captions

The section captions used in this Agreement are for convenience of reference only and do not affect the interpretation or construction of this Agreement.

Section 25. Conflict

In the event there is a conflict between this Agreement and the attached exhibit, this Agreement controls.

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IN WITNESS WHEREOF, the parties hereto have signed or have caused their respective names to be signed to multiple counterparts to be effective on the date signed by the last party hereto

Fort Bend County Drainage District

M&E Consultants, LLC

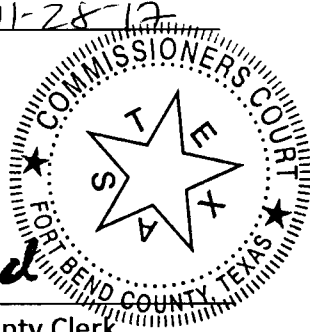
Grady Prestage

Grady Prestage, Commissioner, Precinct 2
Presiding Officer, Commissioners Court, November 28, 2017

11-28-17
Date

ATTEST:

Laura Richard
Laura Richard, County Clerk



J. H. Ince
Authorized Agent – Signature

Jerry G. Ince
Authorized Agent – Printed Name

Partner
Title

11-20-17
Date

APPROVED:

Mark Vogler
Mark Vogler, P.E., Chief Engineer

APPROVED AS TO LEGAL FORM:

Marcus D. Spencer
Marcus D. Spencer, First Assistant County Attorney

AUDITOR'S CERTIFICATE

I hereby certify that funds are available in the amount of \$1,285,914⁰⁰ to accomplish and pay the obligation of Fort Bend County under this contract.

Robert Ed Sturdivant
Robert Ed Sturdivant, County Auditor

EXHIBIT A



M&E Consultants
Soil & Water Engineering Solutions

July 11, 2017

Fort Bend County
Purchasing Department
Travis Annex
301 Jackson, Suite 210
Richmond TX 77469

Dear Selection Officials:

M&E Consultants, LLC (M&E) is very pleased to submit our statement of qualifications for "Q17-086 for Engineering Services for repair of Willow Fork of Buffalo Bayou and Cane Island Branch". M&E will perform all work required by the SOQ without any subs.

Our consulting practice is centered on the preparation of watershed and conservation planning, designs, and construction inspection services for NRCS programs including EWP. M&E staff is composed primarily of former senior staff with the Natural Resources Conservation Service (NRCS) and its predecessor the Soil Conservation Service. Seventeen staff members available to work on requested services each have over 30 years of experience with NRCS working with projects similar to those described in this SOQ. M&E is intimately familiar with the programs and procedures of the NRCS and EWP. M&E is staffed to match the NRCS structure.

Since 2002 M&E has provided planning, design, survey, geotechnical, and/or construction inspection services on 311 repair projects funded by NRCS. The projects were in TX, OK, and AR. Twenty seven of the repair projects were caused by storm events funded by EWP. We have recently completed or almost completed with 18 repair designs and 14 construction inspections projects funded by the Texas NRCS & Texas State Soil and Water Conservation Board.

M&E has unsurpassed NRCS planning, design, geotechnical, construction, and survey experience. M&E's experience insures minimum NRCS review time. We are aware of and have experience with the unique NRCS relationships involving sponsors, local land users, and other stakeholders. NRCS projects have comprised the bulk of our work since 2002. Because of our relationships with NRCS both as employees and working as consultants, **Experience and Commitment** most accurately describe the services that will be provided by M&E.

We look forward with great excitement to working with Fort Bend County and the NRCS in performing work described by this request for qualifications. If you have any question about our submittal, please call our main office in Temple (254-983-9103) or Jerry Ince in Richmond (832-344-6604).

Sincerely,

Dennis Medlin, PE
Founding Partner

Engineers

Cost of Design Surveys, Geotechnical,, & Design

PLAN OF WORK

Survey, Design, Construction Inspection 17 EWP projects Fort Bend County Drainage District

[illegible]

STATEMENT OF WORK

Revised 3/9/2017

A&E Survey, Design and Construction Services FRS EWP Repairs

The Texas State Soil and Water Conservation Board (TSSWCB) is in need of a detailed design and construction inspection for various Floodwater Retarding Structures (FRS) located throughout Texas as shown on **EWP-2016-TABLE 1 – Revised 3/9/2017 (Attached)**.

The scope of this solicitation will be for the performance of any part or all operations necessary, including additional surveys, required to produce a detailed cost estimate, bid schedule, plans, construction specifications, design report, storm water pollution prevention plan, and quality assurance plan for the rehabilitation design. This contract will also include work for performing the on-site quality assurance inspection of the repair designed in this contract or prepared by the Texas NRCS. The final design shall be submitted in a package that can be readily contracted. All work performed under this contract shall meet USDA-NRCS criteria.

The firm will furnish all equipment, personnel and materials necessary and incidental to perform the tasks.

Surveys. Surveys by the A&E Firm will not be required. All surveys will be performed by and available from NRCS.

Design. Design activities required shall be performed in accordance with the attached "TECHNICAL SPECIFICATION ARCHITECT-ENGINEERING DESIGN SERVICES" and may consist of but are not limited to any part or all of the following activities: design water resources project features, prepare construction specifications, prepare construction plans (drawings), prepare landrights work maps, prepare cost estimates, prepare bid schedules, quantity computation checks and certifications, and prepare design folders. The typical project could require knowledge and experience in all aspects of surveying, engineering design and quality assurance activities associated with the design and construction of deep and shallow foundations (bearing capacity, consolidation, seepage, etc.), earth embankments, earthwork, reinforced concrete structures, automated and manual water control gates, rock riprap placement, timber structures, steel structures and structural fabrication, timber, steel and concrete piling, sheet piling and channel bank stabilization measures.

The firm will be required to perform engineering surveys and engineering design activities in accordance with NRCS standards and certify that all surveys and designs meet NRCS standards. The firm will be required to interpret geotechnical reports and data and accurately apply this information to the design of the project measures. NRCS will provide the original geotechnical reports to the firm by request.

only. The majority of the engineering work will be civil in nature and be limited to that necessary to make design decisions. All drawings will be computer-generated in AutoCAD release 2014 format. Electronic copies (DVD format), original hard copies and supporting data are to be furnished to NRCS.

QA Inspection. Inspection serviced required shall be performed in accordance with the attached "TECHNICAL SPECIFICATION ARCHITECT-ENGINEERING CONSTRUCTION SERVICES" and may consist of but are not limited to the following items and tasks:

The items to be constructed requiring QA inspection are:

1. Clearing and Grubbing as required in the Construction Specification 2.
2. Pollution Control and specified in Construction Specification 5.
3. Sediment Filters as specified in Construction Specification 5.
4. Vegetation, sprigging as specified in Construction Specification 6.
5. Construction Surveys as specified in Construction Specification 7.
6. Mobilization and Demobilization as specified in Construction Specification 8.
7. Excavation, Common as specified in Construction Specification 21.
8. Top Soil, Embankment, as specified in Construction Specification 26.
9. Top Soil, Lime Processing Area, as specified in Construction Specification 26.
10. Lime Treated Earthfill, as specified in Construction Specification 28.
11. Furnishing and Handling Lime, Quicklime, as specified in Construction Specification 28.
12. Fences, Barb Wire, as specified in Construction Specification 92.
13. Contractor Quality Control, as specified in Construction Specification 94.

The AE's inspector shall perform the following specific tasks:

1. Construction Services
 - a. Full Time quality assurance field reviews during construction.
 - b. Provide clarification to construction issues and questions.
 - c. Provide advance notice to the NRCS GR if construction modifications are needed.
 - d. Attend check prior and final inspection for the acceptance of the work.
 - e. Coordinate construction inspection with the NRCS GR.
2. Provide quality assurance inspection to insure the construction contractor constructs the repair of the subject site to the contract plans and specifications in accordance with the Technical Specification for Architect-Engineering Construction Services.
 - a. Attend a Pre-Work conference.
 - b. Attend on-site safety meeting with Construction Contractor and NRCS.
 - c. Provide documentation, delivery tickets, as stated in the Construction and Materials Specifications that the materials incorporated into the works meets the contract specification.
 - d. Provide documentation and test results that the methods and procedures used by the construction contract are accomplished in accordance with the contract terms.

For access to the sites contact the appropriate Sponsor as shown below.

Cooke County, Elm Fork projects:

Judge Jason Brinkley, or Ray Fletcher, 940-668-5435

Leon Klement, Precinct Commissioner, 940-736-3911

Cooke County, Clear Creek projects:

Scott Frost, 940-284-0514, 940-736-1094

Williamson County projects:

Lower Brushy WCID, Jim Clarno, Cell: 512-517-7596, Office: 512-943-0822

Guadalupe County projects:

York Creek Improvement District, 830-379-0930

Wise County projects:

Judge J.D. Clark, 940-627-5743

Gary Bible, SWCD Technician, 940-210-3816

(call Gary for site access)

TECHNICAL SPECIFICATION
ARCHITECT-ENGINEERING DESIGN SERVICES

1. SCOPE

The work shall consist of the performance of any part or all operations necessary to design, prepare construction specifications and drawings, cost estimates, bid schedules and design folders for various water resource projects. The "Architect-Engineer" (hereinafter referred to as the "Contractor") shall furnish the necessary personnel, equipment, materials, transportation, facilities and perform the services required to accomplish this work. The projects requiring design services are shown on EWP-2016-TABLE 1.

2. CONTRACTOR'S REPRESENTATIVE

The Contractor shall designate in writing to the TSSWCB and NRCS Government Representative (GR) a principal member of the firm, who is a registered professional engineer in the State of Texas, to supervise the work. The Contractor's representative shall be fully cognizant of the contract requirements, performance of the work and schedule requirements.

3. DESIGN

a. General

The criteria, methods, and procedures contained in applicable NRCS publications shall be used. The Contractor shall certify that all designs meet NRCS standards. The Contractor shall maintain a prompt and continuous liaison with the TSSWCB and NRCS GR for approval of criteria and methods that are not covered by NRCS criteria and methods.

Assumptions made as a basis for design shall be clearly stated and all sources of reference data shall be listed in design reports.

The Contractor shall promptly report to the TSSWCB and NRCS GR any omissions, discrepancies or inadequacies in data furnished as a basis for design including the geological and soil mechanics report. Should the need for supplementary data become apparent during the development of the design, the Contractor shall promptly report such needs to the TSSWCB and NRCS GR. Such reports shall contain suggestions for supplementary investigations or corrective actions required to secure adequate data.

b. Reference Material

The following applicable reference material is available on-line or from the NRCS GR and shall be used by the Contractor for the prosecution of the work:

(1) NRCS National Engineering Manual, Title 210 with Texas Supplements

- Part 511 – Design
- Part 536 – Structural Engineering
- Part 541 – Drafting
- Part 542 – Specifications
- Part 535 – Landscape Architecture

Part 537 – Environmental Engineering
Part 512, Subpart D – Inspection of Construction Work

(2) NRCS Conservation Practice Standards

(3) NRCS National Engineering Handbooks

Section 6 – Structural Design

Section 11 – Drop Spillways

Section 14 – Chute Spillways

Part 642 – Specifications for Construction Contracts

(4) NRCS Technical Releases

TR-5 – Structural Design of Underground Conduits

TR-18 – Computation of Joint Extensibility Requirements

TR-20 – Computer Program for Project Formulation – Hydrology

TR-25 – Design of Open Channels

TR-30 – Structural Design of Standard Covered Risers

TR-31 – Structural Analysis and Design at Low Stage Inlets

TR-37 – Structural Analysis and Design at Base of Riser with Conduit
Openings in Both Endwalls

TR-39 – Hydraulics of Broad-Crested Spillways

TR-42 – Single Cell Rectangular Conduits Criteria and Procedures for
Structural Design

TR-45 – Twin Cell Rectangular Conduits – Criteria and Procedures for
Structural Design

TR-47 – Classification System for Varied Flow in Prismatic Channels

TR-49 – Criteria for the Hydraulic Design of Impact Basins Associated With
Full Flow in Pipe Conduits

TR-50 – Design of Rectangular Structural Channels

TR-52 – A Guide for Design and Layout of Earth Emergency Spillways As
Part of Emergency Systems for Earth Dams

TR-54 – Structural Design of SAF Stilling Basins

TR-55 – Urban Hydrology for Small Watersheds

TR-56 – A guide for Design and Layout of Vegetative Wave Protection for
Earth Dam Embankments

TR-59 – Hydraulic Design of Riprap Gradient Control Structures

TR-60 – Earth Dams and Reservoirs

TR-63 – Structural Design of Monolithic Straight Drop Spillways

TR-65 – Procedure to Establish Priorities in Landscape Architecture

TR-68 – Seismic Analysis of Risers

TR-69 – Riprap for Slope Protection Against Wave Action

TR-73 – Computer Aided Design and Drafting (CADD) Standards

TR-74 – Lateral Earth Pressures

TR-77 – Design and Installation of Flexible Conduits

HEC-RAS River Analysis System User's Manual

HEC-RAS River Analysis System Hydraulic Reference Manual

HEC-RAS River Analysis System Applications Guide

SCSAR Circular No. 1- Plan for construction inspection
SNTC Bulletin No. S210-6-12, Attachment No. 2 – Plan for construction
inspection
HEC-RAS River Analysis System Training Manual Study Guide

- (5) Typical set of construction drawings, specifications, cross sections, and design folder prepared by the NRCS for a similar structure. These samples are furnished to indicate the scope of the work and are not to be used as standards or criteria. New or revised criteria not included in the samples shall be used as applicable.
- (6) Any available standard drawings adaptable to the project.
- (7) Any applicable forms and/or data sheets.
- (8) Watershed Work Plan and/or Environmental Assessment when applicable.
- (9) Geology Report, unless otherwise specified in the Scope of Work.
- (10) Soil Mechanics Report, unless otherwise specified in the Scope of Work.
- (11) Corps of Engineers 404 Permit, and other permits as required.
- (12) Preliminary design data, if available.
- (13) All pertinent correspondence. All other existing data pertinent to the prosecution of the work.

c. Supporting Data

All notes, computations, design assumptions, drawings, sketches, and other data shall be checked and initialed by a competent person. This information shall be recorded neatly and organized in a manner that will allow reproduction of copies and incorporation in reports with a minimum of editing and revision. Design drawings, diagrams, graphs, sketches, or other pictorial representations shall be physically incorporated into the related computation file whenever the size and scale is appropriate. Design drawings that must be drawn on larger size sheets and cannot be folded to computation sheet size shall be cited at the appropriate place in the computations by a notation that fully identifies the drawing and its file location.

d. Drawings

Construction Plans shall conform to the requirements of the NRCS National Engineering Manual, Title 210, Part 541 and shall be prepared and assembled in general conformance with the representative example of a comparable project furnished by the NRCS GR. Drawings on polyester drafting film shall be made in ink. Drawings on cross section and tracing paper may be made in ink or pencil.

e. Review and Approval

Work submitted by the Contractor for review and approval, subject to any changes that may be required by the NRCS GR, will be discussed with the Contractor at conferences arranged for that purpose. Work that in the opinion of the NRCS GR does not require conference discussions may be reviewed and approved by correspondence. Where conferences are required, the Contractor

shall notify the NRCS GR and TSSWCB at least five days in advance of the time of each conference and shall provide, at the time of such notification, an agenda of the questions to be considered. The Contractor shall prepare minutes of the conference and decisions reached and, promptly after each conference, furnish one copy to the TSSWCB and one copy to the NRCS GR.

It shall be necessary to obtain the approval of the NRCS GR in the selection of alternate details or other matters affecting the development of specific elements of the design. In these cases, a design memorandum shall be prepared containing a full presentation of pertinent facts and enclosing copies of pertinent computations, sketches, notes and drawings that are necessary for complete review of the proposal. A copy of the memorandum shall be furnished to the NRCS GR and TSSWCB and shall also be incorporated into the design folder prepared at the completion of the design phase.

The Contractor will be required to attend formal design reviews at 30% and 90% completion phase for all projects. The Contractor shall be prepared to present the information as defined in sections f. and g. below. All phases of will be reviewed by Texas NRCS. All questions must receive a response in writing with supporting data as necessary. These responses are also subject to review.

f. Preliminary Design

The Contractor shall prepare and submit one (1) copy of the preliminary drawings and design folder to the NRCS GR.

(1) The drawings shall consist of:

- (a) A cover sheet
- (b) Overall site map
- (c) Detailed site map
- (d) Plans, profiles, elevations, cross sections, and details needed to describe the work to be constructed.
- (e) Plans and profiles of geologic investigations.
- (f) Preliminary structural drawings.

(2) Preliminary Design Folder

The preliminary design folder shall contain at a minimum the information sections as demonstrated by the example design folder provided by the NRCS GR. A partial list of design folder sections consist of design notes and computations pertinent to this phase of the work including correspondence, flood routings, geology reports, soil mechanics testing reports, hydraulic, slope stability, foundation and structural design computations, and a list of applicable NRCS Specifications and standard drawings required. The folder shall include a detailed design report to explain the design assumptions, methodology, and references used for each design component and or consideration. Drawings that are necessary for proper explanation of the subject matter shall be reproduced to 11 inches on the binding edge and shall be included in the folder. The folder shall be partitioned and indexed in a

logical manner similar to the example furnished.

g. Final Design

After the preliminary design has been reviewed by the NRCS GR, the Contractor shall incorporate the NRCS GR's requirements and prepare and submit one (1) copy of the final construction drawings, the cross sections used to compute quantities and the final design folder unless otherwise specified in the Scope of Work. The Contractor shall also submit all electronic drawing files in *.dwg format and any and all other electronic files related to the design to the NRCS GR.

(1) Final Drawings

Construction drawings shall contain all details required to facilitate the layout and construction of the works.

(2) Final Design Folder

The final design folder shall consolidate into one document the corrected design memoranda that are pertinent to the plans and specifications and shall conform to the requirements of the National Engineering Manual, Title 210, Paragraph 511.11.

(a) General – Alternate designs or solutions that were considered, shall not be included except where mention of alternates and reasons for selection are pertinent.

(b) Design Report – A narrative report shall be included in the design folder. This report shall summarize the design objective, data, criteria, assumptions, procedures and decisions used in the design. It shall conform to the requirements contained in the National Engineering Manual, Paragraph 511.11(b).

(c) Quantity Estimates – All material quantities shall be estimated and summarized by methods typical to those furnished or as approved by the NRCS GR. The Contractor shall check all quantity computations for accuracy. Earthwork quantities shall be computed using a summation of average end areas. The end areas shall be computed from cross sections developed electronically or plotted on 21" x 30" cross section sheets furnished by the Contractor. Cross sections shall be taken at locations that have a significant effect on the computed quantities.

(d) Specifications – NRCS Standard Specifications will be furnished by the NRCS GR. The Contractor shall develop items of work and construction details in conformance with the requirements of NEH Part 642, Specifications for Construction Contracts. Interim and/or one-time use specifications shall be prepared, if necessary, and shall be prepared in conformance with the standard specifications. Typical items of work and construction details for a similar structure will be furnished by the NRCS GR and revised by the Contractor as necessary for the projects.

(e) Bid Schedule – A bid schedule shall be prepared listing all items of work for which payment is to be made. The applicable specification shall be shown for each item of work. Subsidiary items shall be held to a minimum.

- (f) Engineer's Estimate – As a guide for estimating the cost of construction, the NRCS GR shall furnish unit prices on work of similar NRCS projects. The Contractor shall furnish unit prices for items of work for which NRCS does not have current unit price data.
 - (g) Quality Assurance Plan – A plan for inspecting the construction of the project shall be prepared in accordance with Subpart D of Part 512 of the National Engineering Manual, SCSAR Circular No. 1 and Attachment No. 2 to SNTC Bulletin No. S210-6-12.
 - (h) Environmental Considerations and Storm Water Pollution Prevention Plan– Landscape architecture and environmental engineering are to be applied as an integral part of the work in accordance with NRCS policy as provided by applicable reference material in Section 3b and TCEQ policy regarding small and large construction sites.
- h. Final Drawings, Contract Documents and Design Report

Following the final design (90%) review and any required changes have been incorporated, and the NRCS GR has approved the designs, the Contractor shall furnish to the NRCS GR and the TSSWCB the following:

- (1) One (1) set each of ANSI D size and ANSI B size reproducible contract plan drawings signed and sealed by responsible professional engineer reflecting all modifications of the final design and all the electronic drawings in *.dwg format on a DVD.
 - (2) One (1) original copy of the Construction Specifications for the work, Bid Schedule and Cost Estimate and all the electronic files on a DVD.
 - (3) One (1) copy of the Final Design Folder including all relevant electronic data on a DVD.
 - (4) One (1) set of reproducible drawings of the cross sections used for quantity estimates and all the electronic drawings in *.dwg format on a DVD.
 - (5) All data furnished by the NRCS GR for use in performing the work.
- i. Service During Construction
- The Contractor shall, upon written request from the NRCS GR, provide assistance for interpretation of the plans, specifications, or design data. Payment for this service will be made at a price to be negotiated at the time the services are required.

4. PRE-WORK CONFERENCE

The contractor shall meet with the TSSWCB and NRCS GR prior to issuance of a contract to discuss the specified A/E activities. The TSSWCB and NRCS GR and the contractor shall develop a mutual understanding regarding the scope of work and personnel. The contractor will document the understanding reached by correspondence to the TSSWCB and NRCS GR.

5. MEASUREMENT AND PAYMENT

The Contractor will submit to TSSWCB monthly invoices that itemize actual hours of engineering work; the hourly rate; travel costs including transportation, lodging, and meal expenses; and total cost for the billing period. Payment will be based on the approved rates established in the contract. Such payments will constitute full compensation for all labor, equipment, tools, supplies and all other items necessary and incidental to the completion of the work including plotting, drafting and reproduction services of the specified number of copies.

TECHNICAL SPECIFICATION
ARCHITECT-ENGINEERING CONSTRUCTION SERVICES

1. SCOPE

The work shall consist of the performance of any part or all operations necessary to provide construction services. The "Architect-Engineer" (hereinafter referred to as the "A-E") shall furnish the necessary personnel, equipment, materials, transportation, facilities and perform the services required to accomplish this work. The projects requiring construction services are shown on EWP-2016-TABLE 1.

ARCHITECT-ENGINEERING'S REPRESENTATIVE

The A-E shall designate in writing to the TSSWCB and NRCS Government Representative (GR) a principal member of the firm, who is a registered professional engineer in the State of Texas, to supervise the work. The A-E's representative shall be fully cognizant of the contract requirements, performance of the work and schedule requirements.

The A-E shall submit for approval the names and qualifications (degrees and experience) of all Engineers and Inspectors that were not included in the original Statement of Qualifications to the TSSWCB.

2. CONSTRUCTION

a. General

Activities required may consist of but not limited to providing full time construction inspection to insure contract compliance and quality assurance. Quality assurance (QA) activities shall include maintaining a job dairy, providing field QA testing, interpret drawings, specifications, geologic reports, soil mechanics reports, and contract provisions contained in the contract. The criteria, methods, and procedures contained in applicable NRCS publications shall be used. The A-E shall maintain a prompt and continuous liaison with the NRCS GR for approval of criteria and methods that are not covered by NRCS criteria and methods.

The A-E shall promptly report to the TSSWCB and NRCS GR any omissions, discrepancies or inadequacies in design plans, construction specifications, geological and/or soil mechanics report. Should the need for supplementary data become apparent during construction, the A-E shall promptly report such needs to the TSSWCB and NRCS GR. Such reports shall contain suggestions for corrective actions required to secure adequate construction.

b. Reference Material

The NRCS GR will furnish the following applicable reference material to the A-E for the prosecution of the work:

- (1) NRCS National Engineering Manual, Title 210 with Texas Supplements
Part 512, Subpart D – Inspection of Construction Work
- (2) NRCS National Engineering Handbooks
Section 19 – Construction Inspection

Part 642 – Specifications for Construction Contracts

- (3) Contract clauses, Specifications, SWPPP, and Drawings.
- (4) OSHA Part 1910 and 1926
- (5) NRCS National Contract, Grants, and Cooperative Agreement Manual

Part 516 – Contracting

Part 517 – Contract Administration

c. Records and Reports

The project engineer shall keep records and reports required in administering the construction contract. National Engineering Handbook (NEH) - Section 19, Construction Inspection, the Federal Acquisition Regulation (*FAR*) for Federal Contracting and Contract Administration, and parts 516 and 517 of the National Contract, Grants, and Cooperative Agreements Manual show what records and reports are required and give instructions for their use. Documentation pertaining to specific inspections and tests is described in NEH – Section 19.

Weekly reports shall be provided to the GR, which provides the quantities of work performed for each bid item, and a narrative of on-site activities for the week. A NRCS form for this report shall be used.

The A-E's on-site inspector shall gather weekly payrolls from the construction contractor and check them against the minimum Davis Bacon wages in the contract. After checking the payrolls shall be submitted to the GR weekly. On-site labor interviews (one per week until all of the construction employees have been interviewed, then one per month) shall be conducted on the construction contractor work form using the forms provided by the NRCS.

The A-E shall, after checking lower limits of excavation, determine if the construction contractor has completed excavation and documents in job diary instructions to contractor to proceed with earthfill or lime-treated as specified in the plans. The A-E shall examine lower limits to determine if slope slide materials are completely removed. Where there are areas in question the A-E shall notify the NRCS GR for a on-site examination of the lower limits with the Project Engineer or NRCS State Geologist.

The A-E's on-site QA inspector shall perform bi-weekly inspection of the SWPPP practices installed by the construction contractor. A maintenance and inspection form shall be used that is provided by the NRCS, after completion the form shall be kept on site with the SWP3 plan folder.

The inspector shall keep a set of plans for on-site recording of as built construction drawings on a 22 x 34 inch set of drawings in red ink. These drawings shall be turned into the NRCS GR at the completion of the construction contract.

The A-E's on-site inspector shall assist in the development of monthly payment estimates with the construction contractor's superintendent. After on-site agreement of the interim quantities the A-E shall record and provide these to the GR.

d. Quality Assurance Testing

Sampling and testing procedures described in NEH – Section 19 are used in the construction industry to ensure that soil or concrete products meet contract requirements. A few quick indicator tests are included. If these indicator tests show that quality is borderline or lower, standard tests must be made to verify the condition and to support actions taken. All testing must be done in strict accordance with test specifications.

American Society for Testing and Materials (ASTM) test specifications shall be used for most construction materials. ASTM specifications are available from the NRCS GR or the NRCS State Office. Data from tests and computations of control parameters are recorded on specified forms. Copies of forms are available from the NRCS GR.

The inspector shall independently perform and interpret field surveys for the checking of subgrades and completed work as specified in the plans.

e. Equipment Needed:

The A-E shall furnish the following equipment:

One full sized pickup truck.

Compaction kit

Nuclear density gauge or other equipment to check placed density and moisture content in accordance with appropriate ASTM procedure

Level, chain and level rod – misc. surveying equipment

¼ inch standard sieves

Hand tools and incidentals

3. PRE-WORK CONFERENCE

The A-E (with the assigned QA inspector) shall meet with the NRCS GR and TSSWCB prior to issuance of a contract for engineering services to discuss the specified A/E activities. The TSSWCB, NRCS GR, and the A-E shall develop a mutual understanding regarding the scope of work and personnel. The A-E will document the understanding reached by correspondence to the TSSWCB and NRCS GR.

The A-E (with the assigned QA inspector) shall meet with the NRCS GR and construction contractor prior to construction start to discuss the contract and duties of all parties, including the A/E activities for quality assurance. The NRCS GR and the construction contractor and the A-E shall develop a mutual understanding regarding the scope of work, safety requirements, CQC and QA, and personnel. The A-E will document the minutes of the meeting by correspondence to the NRCS GR.

The NRCS GR shall determine the delegated authority level to assign to the A-E concerning safety issues that arise on-site that threaten the health and safety of the public, sponsors, A&E inspectors, the construction contractor personnel and NRCS personnel. The delegated authority shall be provided in writing, signed by the NRCS GR.

4. MEASUREMENT AND PAYMENT

The Contractor will submit to TSSWCB monthly invoices that itemize actual hours of engineering work; the hourly rate; travel costs including transportation, lodging, and meal expenses; and total cost for the billing period. Payment will be based on the approved rates established in the contract. Such payments will constitute full

compensation for all labor, equipment, tools, supplies and all other items necessary and incidental to the completion of the work.

The work week shall consist of six (6) eleven (11) hour days. Overtime shall be paid for time worked each week that exceeds 40 hours.

Payment for inspection services during periods where the construction contract is shutdown for wet weather shall be made as follows;

The A-E's on-site inspector and the construction contractor's superintendent shall agree that the day or period of the day is too wet to work safely and the site is shutdown for weather.

When a site is shutdown, the A-E's on-site inspector shall call the NRCS-GR and inform them of the weather situation.

A-E's on-site inspector shall record actual work time from the duty station (home) to the job site, time worked, and then back to the duty station. If it is less than 8 hours and the A-E's inspector is staying in a hotel, the charge is 8 hours. The next day the A-E's on-site inspector shall check the site's conditions and determine with the construction contractor's superintendent the work status. If it is still too wet to work, call the NRCS-GR to determine if site visit is required the next day. The second day's work time should be recorded as the first day the site was rained out.

This contract may be issued a stop work order in the event of extended inclement weather or failure to perform by the construction contractor. In that case, performance of this contract shall be suspended until a resume work authorization or a termination is received.

TECHNICAL SPECIFICATION
ARCHITECT-ENGINEERING SURVEYING SERVICES

1. SCOPE

The work shall consist of the performance of any part or all operations necessary to survey, record field notes, and prepare survey drawings for various water resource projects. The "Surveyor" (hereinafter referred to as the "Contractor") shall furnish the necessary personnel, equipment, materials, transportation, and facilities required to accomplish this work. The projects for which surveying services are required are shown in TABLE 1.

2. CONTRACTOR'S REPRESENTATIVE

The Contractor shall designate in writing to the Texas State Soil and Water Conservation Board (TSSWCB) and the USDA Natural Resources Conservation Service (NRCS) a principal member of the firm, who is a surveyor or other approved personnel, to supervise the work. The Contractor's representative shall be fully cognizant of the contract requirements, performance of the work and schedule requirements.

3. SURVEYS

a. General

The work may include, but is not limited to conducting location surveys, cross sections, profiles, topographic/planimetric surveys, vertical and horizontal control surveys, construction layout, surveys for quality assurance, surveys for final quantity computations, and as-built surveys. Surveys may be required in a variety of terrain including but are not limited to; rivers, large lakes, creeks, cities, rural areas and uplands.

Work will be reviewed and verified for accuracy by Contractor's personnel prior to submittal to the TSSWCB and NRCS Government Representative (GR). Work submitted will be reviewed and approved by the NRCS GR and TSSWCB and will be discussed at conferences arranged for that purpose.

Liaison shall be maintained by the Contractor with the NRCS GR to the extent necessary to insure the GR's concurrence in matters affecting the development of general or specific elements of survey.

b. Reference Material

The criteria, methods and procedures contained in the applicable references listed below shall be used.

Copies of references published by the Natural Resources Conservation Service (NRCS) will be furnished upon request as needed for the prosecution of the work.

(1) NRCS National Engineering Manual

Part 511 Design
Part 540 Field Surveys
Part 541 Drafting
Part 542 Specifications

(2) NRCS Technical Releases

TR-62 – Engineering Layout, Notes, Staking, and Calculations

(3) NRCS Engineering Field Handbook

Chapter 1 – Engineering Surveys

(4) Other:

Representative Example of Survey Drawings

(5) Site Data:

Damage Survey Report
As-Built Drawings

c. Notebooks and Notekeeping

All survey notes shall be kept in the conventional manner and shall be neatly recorded in a standard bound survey field book and/or a NRCS – ENG – 191 - Engineer Field Books. The notebooks shall contain only notes and records that pertain to the relative project and shall be labeled and indexed as described on pages 1-1 and 1-2 of TR-62. The notebooks shall be furnished to the NRCS GR following the completion of the surveys.

If electronic survey data are collected, the electronic files shall be retained as well as bound Engineering Field Books and provided to the NRCS GR. The electronic survey files shall be AutoCad compatible.

d. Accuracy

Survey accuracy shall comply with the requirements for ordinary surveys in the NRCS Engineering Field Handbook, Chapter 1, Table 1-1, with the exception of setting benchmarks for control. The accuracy required for setting benchmarks shall be Second Order Class I for vertical and Second Order Class II for horizontal.

e. Benchmarks

Any benchmarks used in providing surveys within a project area shall be on North American Datum 1983 (NAD 83) for horizontal and North American Vertical Datum 1988 (NAVD 88) for vertical. Any benchmarks proposed to be used by the Contractor shall be submitted to the NRCS GR for approval.

Setting benchmarks within the project areas may be required. If setting benchmarks are required, the NRCS GR shall concur in the exact location of the benchmarks. Each benchmark shall have both horizontal and vertical datum established. Benchmark monuments installed shall consist of 5/8" inch diameter steel rods driven to refusal by the use of an adequate manual or power post driver.

f. Field Surveys

Field surveys may be required for any or all of the following:

- (1) To establish horizontal and/or vertical control for a specified project area. The horizontal control shall be Texas State Plane Coordinate System, Lambert Conformal Projection, and Appropriate Zone NAD-83. The NAD-83 datum shall be converted to feet by multiplying by a factor of 3.28083333. The vertical control shall be NAVD-88 or most current available. The accuracy shall be as defined in the Scope of Work and consistent with Section 3.d. Benchmarks shall be established as described above.
- (2) To obtain detailed topographic, planimetric, hydrographic/bathymetric data for design and location of proposed works. The surveys, unless otherwise indicated, shall be of such detail that an accurate digital terrain model can be developed. Surveys may include linear surveys along water body shorelines, or detailed site surveys for structure locations. The lateral and longitudinal extent of required surveys along with the required details shall be defined in the Scope of Work for individual contracts. Reference markers shall be placed at locations concurred in by the NRCS GR during the field survey.

The Contractor shall locate and secure pertinent elevations of special features such as buildings, bridges, bulkheads, pilings, roads, fences, embankments, levees, existing structural improvements and similar features. All utilities within the designated survey areas, both overhead and underground must be located both horizontally and vertically. All special features surveyed shall be recorded in the notes and include both horizontal and vertical information.

- (3) To layout proposed construction works and determine pre-work conditions. This may include but is not limited to staking for construction items such as channel excavation, structure centerline locations, or other similar activities. Pre-construction surveys may be required to determine quantities for payment of items in construction contracts. The specific requirements for layout or pre-construction surveys will be defined in the scope of work for individual contracts.
- (4) To provide final surveys of completed construction activities to determine final quantities and development of "As Built" Drawings. These surveys may include but are not limited to profiles and cross sections of excavations or fills, alignment and final elevations of completed features and other surveys as needed to determine if construction has been completed in accordance with specifications. The specific requirements of final surveys will be defined in the scope of work for individual contracts.
- (5) To provide channel cross sections, hydrographic surveys, volumetric surveys and elevation delineation surveys in support of hydrologic modeling data requirements.
- (6) The Contractor will be required to submit the following survey data:

- (a) Copies of data sets on DVD in ASCII format arranged in columns as follows:
point number, northing, easting, elevation, feature code, and description.
- (b) Hard copies of the data sets.
- (c) Originals of field notebook records.

g. Drawings

Any or all of the following drawing types may be required:

- (1) Generating a plan drawing of the project at a NRCS GR approved horizontal scale on 22"x34" reproducible media. The plan detail shall consist of plotting the position of each cross section's station 0+00; plotting a line representing the length and orientation of the cross sections; plotting the bank line, rights of way and centerline of the channel, all pipelines and identifying the owner; presenting a table with the names of all utilities and contact phone numbers; plotting the coordinate system on a labeled grid pattern and plotting the permanent monuments. When applicable, the drawings shall be match marked. The line style and general drafting techniques shall be as concurred in by the NRCS GR. If required by NRCS GR, the plotted plan drawing shall be overlaid on the latest Digital Orthophoto Quarter Quadrangle (DOQQ).
- (2) Submitting digital copies of drawings files on DVD in *.dwg format.

h. Report

The survey report shall include all original survey field notes, converted notes, plots and drawings of survey data. At the close of each task order all field notebooks and original survey drawings shall be furnished to the NRCS GR.

i. PRE-WORK CONFERENCE

The Contractor shall meet with the TSSWCB and NRCS GR prior to execution of the contract for Professional Services to discuss the specified Contractor activities. The TSSWCB, NRCS GR, and the Contractor shall develop a mutual understanding regarding the scope of work and personnel.

j. MEASUREMENT AND PAYMENT

Payment will be made at the lump sum price established in the contract. Such payments will constitute full compensation for all labor, equipment, tools, supplies and all other items necessary and incidental to the completion of the work including plotting, drafting and reproduction services of the specified number of copies.

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY CERTIFICATION OF FILING

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

M&E Consultants, LLC
Temple, TX United States

Certificate Number:
2017-285836

Date Filed:
11/20/2017

Date Acknowledged:

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

Ft. Bend County

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

SOQ 17-086
Engineering design and Construction Management

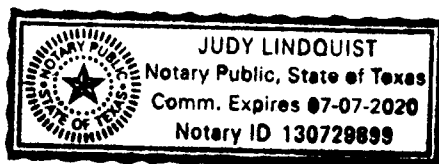
4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary

5 Check only if there is NO Interested Party.



6 AFFIDAVIT

I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.



J. S. Ince Partner
Signature of authorized agent of contracting business entity

AFFIX NOTARY STAMP / SEAL ABOVE

Sworn to and subscribed before me, by the said Terry Ince, this the 20th day of November 2017, to certify which, witness my hand and seal of office.

Judy Lindquist
Signature of officer administering oath

Judy Lindquist
Printed name of officer administering oath

HR Assistant, FBC
Title of officer administering oath

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

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M&E Consultants, LLC
Temple, TX United States

Certificate Number:
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11/20/2017

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

Ft. Bend County

Date Acknowledged:
11/28/2017

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

SOQ 17-086
Engineering design and Construction Management

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary

5 Check only if there is NO Interested Party.



6 AFFIDAVIT

I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.

Signature of authorized agent of contracting business entity

AFFIX NOTARY STAMP / SEAL ABOVE

Sworn to and subscribed before me, by the said _____, this the _____ day of _____,
20_____, to certify which, witness my hand and seal of office.

Signature of officer administering oath

Printed name of officer administering oath

Title of officer administering oath