

CONSULTING SERVICES AGREEMENT

THIS AGREEMENT is made and entered into by and between the Fort Bend County Toll Road Authority, a local government corporation organized and operating under the laws of the State of Texas, hereinafter called the “FBCTRA” and LJA Engineering, Inc. hereinafter called “Consultant.”

WITNESSETH

WHEREAS, the FBCTRA proposes to design the tollway main lanes along the Fort Bend Westpark Tollway (Project 101-1032), from Bois D'Arc Ln/Charger Way to FM 723/Spring Green, in Fort Bend County, Texas, (the “Project”);

WHEREAS, the FBCTRA desires to enter into an agreement with Consultant for the performance of services during the Project, that are within the scope of services in Attachment A (“Scope of Services”);

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

AGREEMENT

1. General

The Consultant shall render professional services to FBCTRA related to the Project as defined in the Scope of Services in Attachment A.

The standard of care for all professional services performed or furnished by consultant under this Agreement will be the care and skill ordinarily used by members of consultant’s profession practicing under similar conditions at the same time and in the same locality.

2. Compensation and Payment

- a. The Maximum Compensation under this Agreement is \$183,396.50. The amount paid under this Agreement may not exceed the Maximum Compensation without an approved supplemental agreement.

Compensation for the performance of services within the Scope of Services described in Attachment A will be paid as a lump sum amount not to exceed \$62,525.50, and hourly (time & expenses) not to exceed \$120,871.00 as shown in Attachment B. Progress payments for work detailed in Attachment A will be made when the consultant has attained a level of completion equal to or greater than agreed upon milestones of completion in the reasonable opinion of the FBCTRA.

The Consultant shall furnish satisfactory documentation of such work (e.g. timesheets, billing rates, classifications, invoices, etc.) as may be required by FBCTRA.

- b. All performance of the Scope of Services and any services outside the Scope of Services (“Additional Services”), including changes in the contractual scope of work and revision of work satisfactorily performed, will be performed only when approved in advance and authorized by the FBCTRA, and Additional Services will be reimbursed based on the billing rates in effect at that time, to the extent that such labor costs and subcontracts are reasonable and necessary for the performance of such services. Out-of-pocket expense costs may be reimbursed only when approved in advance and authorized by the FBCTRA. Payment will be made (i) on the basis of project progress to be billed monthly and, for Additional Services, (ii) on the basis of time and expense records, and in accordance with those payment procedures set forth in subsection d. below. Billing rates will be inclusive of all direct labor, fringe benefits, general overhead, and profit.
- c. Where subcontractors are employed by the Consultant to perform pre-approved and pre-authorized Additional Services, the Consultant will be reimbursed for subcontractors’ actual salaries and hourly rates, including overtime rates. Reimbursement to the subcontractor for non-salary costs incurred by subcontractor will be on the same basis as if the cost was incurred by the Consultant. For subcontractors employed for the convenience of the FBCTRA, the Consultant will be paid a subcontract administrative fee equal to ten percent (10%) of all subcontractor invoiced amounts.
- d. It is understood and agreed that monthly payments will be made to the Consultant by the FBCTRA based on the following procedures: By the first Monday of each month during the performance of services hereunder and on or about the fifteenth day of the month following completion of all services hereunder, the Consultant shall submit to the FBCTRA one copy of invoice showing the amounts due for services performed during the previous month, set forth separately for work under this Agreement and for any Additional Services (accompanied by supporting certified time and expense records of such charges in a form acceptable to the FBCTRA). It is specifically understood that any requests for travel reimbursements shall comply with those procedures for travel reimbursement to Fort Bend County (the “County”) employees established by the Fort Bend County Auditor (the “Auditor”). The FBCTRA shall review such invoices and approve them within 30 calendar days with such modifications as are consistent with this Agreement, and forward same to the Auditor. The County shall pay each such invoice as approved by the FBCTRA within thirty (30) calendar days after the FBCTRA’s approval of same.

3. Time of Performance

It is understood and agreed that the time for performance of the Consultant's services under this Agreement shall begin with receipt of the Notice to Proceed. The Consultant will maintain the delivery schedule to be provided by the FBCTRA.

This Agreement will terminate upon the Consultant's completion of the Scope of Services to the satisfaction of the FBCTRA.

4. The FBCTRA's Option to Terminate

- a. The FBCTRA has the right to terminate this Agreement at its sole option at any time, with or without cause, by providing 30 days written notice of such intentions to terminate and by stating in said notice the "Termination Date" which shall be less than 30 days later than the actual receipt of such written notice by the Consultant. Upon such termination, the FBCTRA shall compensate the Consultant in accordance with Section 2, above, for those services which were provided under this Agreement prior to its termination and which have not been previously invoiced to the FBCTRA. The Consultant's final invoice for said services will be presented to and paid by the FBCTRA in the same manner set forth in Section 2(d), above.
- b. Termination of this Agreement and payment as described in subsection (a) of this section shall extinguish all rights, duties, obligations, and liabilities of the FBCTRA and the Consultant under this Agreement, and this Agreement shall be of no further force and effect, provided, however, such termination shall not act to release the Consultant from liability for any previous default either under this Agreement or under any standard of conduct set by common law or statute. The obligations in Sections 5, 6, and 14 of this Agreement shall survive the termination of this Agreement.
- c. If the FBCTRA 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 the Consultant.
- d. The FBCTRA's rights and options to terminate this Agreement, as provided in any provision of this Agreement shall be in addition to, and not in lieu of, any and all rights, actions, and privileges otherwise available under law or equity to the FBCTRA by virtue of this Agreement or otherwise. Failure of the FBCTRA to exercise any of its said rights, actions, options, or privileges to terminate this Agreement as provided in any provision of this Agreement shall not be deemed a waiver of any rights, actions, or privileges otherwise available under the law or equity with respect to any continuing or subsequent breaches of this Agreement or of any other standard of conduct set by common law or statute.
- e. Copies of all completed and partially completed documents prepared under this Agreement shall be delivered to the FBCTRA within 30 days of the Termination Date or upon Consultant's receipt of fees due and payable at the Termination Date, whichever is sooner, when and if this Agreement is terminated.

5. Inspection of the Consultant's Books and Records

Upon written notice (including email), the Consultant will permit the FBCTRA, or any duly authorized agent of the FBCTRA, to inspect and examine the books and records of the Consultant for the purpose of verifying the amount of work performed on the Project at reasonable times during normal business hours. FBCTRA's right to inspect survives the termination of this Agreement for a period of four years.

6. Ownership and Reuse of Documents

Upon payment in full for undisputed amounts of Consultant's services, all documents, including original drawings, estimates, specifications, field notes, and data created, produced, developed or prepared by Consultant or its approved outside advisory or support consultants (collectively, the "Documents") shall be the property of the FBCTRA, subject to all of the following terms and conditions; provided, however, FBCTRA shall not own and shall have no right to receive any documents not deemed "final" by the Consultant until completion or termination of this Agreement, as applicable. Consultant will deliver the Documents to FBCTRA within 30 days of the completion or termination of this Agreement and may retain a set of reproducible record copies of the Documents, provided that the Consultant has received full compensation due pursuant to the terms of this Agreement. It is mutually agreed that FBCTRA will use the Documents solely in connection with the Project and for no other purposes, except with the express written consent of the Consultant, which consent will not be unreasonably withheld. Any use of the Documents without the express written consent of the Consultant will be at FBCTRA's sole risk and without liability or legal exposure to Consultant.

FBCTRA shall also be the owner of all intellectual property rights of the services rendered hereunder, including all rights of copyright therein. It is the intention of Consultant and FBCTRA that the services provided are a "work for hire" as the term is used in the federal Copyright Act. Moreover, Consultant hereby agrees to assign, and by these presents, does assign to FBCTRA, all of Consultant's worldwide right, title, and interest in and to such work product and all rights of copyright therein.

Consultant agrees that all trademarks, trade names, service marks, logos, or copyrighted materials of FBCTRA that Consultant is permitted to use in connection with the services will not be used without FBCTRA's consent and shall remain the sole and exclusive properties of FBCTRA, and this Agreement does not confer upon Consultant any right or interest therein or in the use thereof.

7. Personnel, Equipment, and Material

- a. The 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 the Consultant shall furnish and maintain, at its own expense, adequate and sufficient personnel and equipment, in the opinion of the FBCTRA, to perform the Scope of Services when and as required and without delays. It is understood that the FBCTRA will approve assignment and release of all key Consultant personnel and that the Consultant shall submit written notification of all key Consultant personnel changes for the FBCTRA's approval prior to the

implementation of such changes. For the purpose of this Agreement, key Consultant personnel are defined as: Project Manager

- b. All employees of the Consultant shall have such knowledge and experience as will enable them to perform the duties assigned to them. Any employee of the Consultant who, in the opinion of the FBCTRA, is incompetent, or, by his conduct, becomes detrimental to the Project, shall, upon request of the FBCTRA, immediately be removed from association with the Project.
- c. Except as otherwise specified, the Consultant shall furnish all equipment, transportation, supplies, and materials required for its operation under this Agreement.

8. Items to be furnished to Consultant by the FBCTRA

As applicable, the following items will be supplied to the Consultant:

- a. Copies of preliminary studies by others.
- b. Assistance in coordination with all utility companies.
- c. Assistance in coordination with all public and governmental entities.

9. Subletting

The Consultant shall not sublet, assign, or transfer any part of its rights or obligations in this Agreement without the prior written approval of the FBCTRA. Responsibility to the FBCTRA for sublet work shall remain with the Consultant.

10. Conference

At the request of the FBCTRA, the Consultant shall provide appropriate personnel for conferences at its offices, or attend conferences at the various offices of the FBCTRA, or at the site of the Project, and shall permit inspections of its offices by the FBCTRA, or others when requested by the FBCTRA.

11. Appearance as Witness

If requested by the FBCTRA, or on its behalf, the Consultant shall prepare exhibits and plans as may be requested for all hearings and trials related to the Project and, further, it shall prepare for and appear at conferences at the office of the FBCTRA and shall furnish competent expert and/or witnesses to provide such oral testimony and to introduce such demonstrative evidence as may be needed throughout all trials and hearings with reference to any litigation relating to the Project. Trial preparation and appearance by the Consultant in courts regarding litigation

matters are Additional Services and compensation will be paid in accordance with Section 2(b).

12. Compliance with Laws

The 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, the Consultant shall furnish the FBCTRA with certification of compliance with said laws, statutes, ordinances, rules, regulations, orders, and decrees above specified.

13. Insurance

The Consultant shall obtain and maintain, throughout the term of the Agreement, insurance of the types and in the minimum amounts set forth in Attachment C.

14. Indemnification

With respect to claims brought by third parties against either Consultant or the FBCTRA relating to the property or facilities with respect to which this Agreement pertains, Consultant and the FBCTRA agree as follows:

- a. **CONSULTANT WILL INDEMNIFY AND HOLD HARMLESS THE FBCTRA, ITS DIRECTORS, OFFICERS, AND EMPLOYEES AGAINST ANY CLAIMS, DEMANDS OR CAUSES OF ACTION; AND COSTS, LOSSES, LIABILITIES, EXPENSES AND JUDGMENTS INCURRED IN CONNECTION THEREWITH, INCLUDING REASONABLE ATTORNEY'S FEES AND COURT COSTS, BROUGHT BY ANY OF CONSULTANT'S EMPLOYEES OR REPRESENTATIVES, OR BY ANY OTHER THIRD PARTY, BASED UPON, IN CONNECTION WITH, RESULTING FROM OR ARISING OUT OF THE NEGLIGENT ACTS, ERRORS OR OMISSIONS OF CONSULTANT; HOWEVER, CONSULTANT'S CONTRACTUAL OBLIGATION OF INDEMNIFICATION SHALL NOT EXTEND TO THE NEGLIGENCE OR OTHER FAULT OF THE FBCTRA OR STRICT LIABILITY IMPOSED UPON THE FBCTRA AS A MATTER OF LAW (INCLUDING STRICT LIABILITY IMPOSED UPON THE FBCTRA AS A RESULT OF THE CONDITION OF THE PROPERTY OR FACILITIES WITH RESPECT TO WHICH THIS AGREEMENT PERTAINS).**
- b. In the event that both the FBCTRA and Consultant are adjudicated negligent or otherwise at fault or strictly liable without fault with respect to damage or injuries sustained by the claimant, each shall be responsible for its own costs of litigation and pro rata share of damages as determined by the proceedings.

It is a condition precedent to the indemnitor's contractual obligation of indemnification under this Agreement that the party seeking indemnity shall provide written notice of a third party claim, demand, or cause of action within 30 days after such third party claim, demand, or cause of action is received by the party seeking indemnity. It is a further condition precedent to the indemnitor's contractual obligation of indemnification under this Agreement that the indemnitor shall thereafter have the right to participate in the investigation, defense, and resolution of such third party claim.

15. Dispute Resolution

Except as expressly provided in Section 4. Option to Terminate, if a dispute arises out of, or relates to, the breach thereof, and if the dispute cannot be settled through negotiation, then the FBCTRA and the Consultant agree to submit the dispute to mediation. In the event the FBCTRA or the Consultant desires to mediate any dispute, that party shall notify the other party in writing of the dispute desired to be mediated. If the parties are unable to resolve their differences within 10 days of the receipt of such notice, such dispute shall be submitted for mediation in accordance with the procedures and rules of the American Arbitration Association (or any successor organization) then in effect. The deadline for submitting the dispute to mediation can be changed if the parties mutually agree in writing to extend the time between receipt of notice and submission to mediation. The expenses of the mediator shall be shared 50 percent by the FBCTRA and 50 percent by the Consultant. This requirement to seek mediation shall be a condition required before filing an action at law or in equity.

16. Delivery of Notices, Etc.

- a. All written notices, demands, and other papers or documents to be delivered to the FBCTRA under this Agreement, shall be delivered to the Fort Bend County Toll Road Authority, 1950 Lockwood Bypass, Richmond, Texas 77469, Attention: Mike Stone, or at such other place or places as it may from time to time designate by written notice delivered to the Consultant. For purposes of notice under this Agreement, a copy of any notice or communication hereunder shall also be forwarded to the following address: Fort Bend County Clerk, 301 Jackson Street, Richmond, Texas 77469, Attention: County Judge.
- b. All written notices, demands, and other papers or documents to be delivered to the Consultant under this Agreement shall be delivered to LJA Engineering Inc. 3600 W Sam Houston Pkwy S, Suite 600, Houston, Texas 77042 Attention: Jeff T. Cannon, Senior Vice President or such other place or places as the Consultant may designate by written notice delivered to the FBCTRA.

17. Reports of Accidents, Etc.

Within 24 hours after the occurrence of any accident or other event which results in, or might result in, injury to the person or property of any third person (other than an employee of the Consultant), whether or not it results from or involves any action or failure to act by the Consultant or any employee or agent of the Consultant and which arises in any manner from the performance of this Agreement, the Consultant shall send a written report of such

accident or other event to the FBCTRA, setting forth a full and concise statement of the facts pertaining thereto. The Consultant shall also immediately send the FBCTRA a copy of any summons, subpoena, notice, other documents served upon the Consultant, its agents, employees, or representatives, or received by it or them, in connection with any matter before any court arising in any manner from the Consultant's performance of work under this Agreement.

18. The FBCTRA's Acts

Anything to be done under this Agreement by the FBCTRA may be done by such persons, corporations, or firms as the FBCTRA may designate.

19. Limitations

Notwithstanding anything herein to the contrary, all covenants and obligations of the FBCTRA under this Agreement shall be deemed to be valid covenants and obligations only to extent authorized by the Act creating the FBCTRA and permitted by the laws and the Constitution of the State of Texas. This Agreement shall be governed by the laws of the State of Texas, and no officer, director, or employee of the FBCTRA shall have any personal obligation hereunder.

20. Captions Not a Part Hereof

The captions of subtitle of the several sections and divisions of this Agreement constitute no part of the content hereof, but are only labels to assist in locating and reading the provisions hereof.

21. Controlling Law, Venue

This Agreement shall be governed and construed in accordance with the laws of the State of Texas. The parties hereto acknowledge that venue is proper in Fort Bend County, Texas, for all disputes arising hereunder and waive the right to sue or be sued elsewhere.

22. Successors and Assigns

The FBCTRA and the 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.

23. Statutory Terms Applicable To State Political Subdivisions

- a. Contractor certifies and agrees that it (i) does not, nor will not, so long as the Agreement remains in effect, boycott Israel, as such term is defined in Chapter 808, Texas Government Code; (ii) does not engage in business with Iran, Sudan, or any foreign terrorist organization pursuant to Subchapter F of Chapter 2252 of the Texas Government Code; (iii) is not identified on a list prepared and maintained under Sections 806.051, 807.051, or 2252.153, Texas Government Code; (iv) does not, nor will not, so long as the Agreement remains in effect, boycott energy companies, as such term is defined in Chapter 809, Texas Government Code; (v) does not, nor will not, so long as the Agreement remains in effect, have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association, as such term is defined in 2274.001(3), Texas Government Code; and (vi) is not (a) owned or controlled by (1) individuals who are citizens of China, Iran, North Korea, Russia or any designated country (as such term is defined in 113.003, Texas Business & Commerce Code); or (2) a company or other entity, including a governmental entity, that is owned or controlled by citizens of or is directly controlled by the government of China, Iran, North Korea, Russia, of any designated country; or (b) headquartered in China, Iran, North Korea, Russia or a designated country.
- b. Prior to execution of this Agreement by FBGPTRA, the Consultant will be required to submit a Texas Ethics Commission Form 1295. Please see this website for details related to this disclosure:
https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm
- c. In accordance with Section 176.0065, Texas Local Government Code, a list of local government officers of FBGPTRA may be obtained by contacting the FBGPTRA's records administrator at (281) 500-6050.

24. Appendices

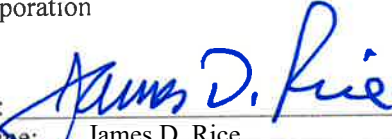
The Appendices attached to this Agreement, which consists of:

Attachment A	Scope of Services
Attachment B	Compensation for Scope of Services
Attachment C	Insurance Requirements


[Signatures Follow]

IN WITNESS WHEREOF, the parties hereto have signed or have their respective names to be signed to multiple counterparts to be approved by the FBCTRA on the 20th day of March 2023.

FORT BEND COUNTY TOLL ROAD
AUTHORITY, a Texas local government
corporation

By: 
Name: James D. Rice
Title: Chairman

LJA Engineering, Inc.

By: 
Name: Jeff T. Cannon
Title: Senior Vice President

EFFECTIVE DATE

THIS AGREEMENT IS EFFECTIVE ON THE DATE IT IS APPROVED BY THE FORT BEND COUNTY COMMISSIONERS COURT, AND IF NOT SO APPROVED SHALL BE NULL AND VOID.

DATE OF COMMISSIONERS COURT APPROVAL:

AGENDA ITEM NO.: _____

CONSULTANT'S SCOPE OF SERVICES

LJA Engineering, Inc. (the Consultant) will provide environmental services for the extension of the Westpark Toll Road from FM 723/Spring Green to Bois D'Arc Lane/Charger Way. Within the project limits, the proposed toll road extension would be constructed between the divided lanes of FM 1093. No additional right-of-way (ROW) would be required. There is no federal or state funding for the project; however, project connections to FM 1093 may warrant Texas Department of Transportation (TxDOT) involvement. The project would meet the requirements of a TxDOT C-22 (all work within existing operational ROW) Categorical Exclusion (CE). The project has two TxDOT CSJ numbers:

- 0543-02-064 – From Bois D'Arc Lane/Charger Way to FM 1463/FM 359
- 1258-03-045 – From FM 1463/FM 359 to west of FM 723/Spring Green

Tasks and deliverables described below would be prepared to TxDOT standards to support approval of a C-22 CE.

Environmental Basic Services will include:

1. WATERS OF THE U.S. DELINEATION

Conduct a waters of the U.S. delineation and ordinary high water mark identification within the existing ROW in order to map onsite aquatic features potentially regulated by the United States Army Corps of Engineers (USACE) under Section 404 of the Clean Water Act (CWA) and Section 10 of the Rivers and Harbors Act (RHA). Field efforts will be designed to identify and delineate the boundaries of potentially jurisdictional waters of the U.S. at the project site.

Note: The entire project ROW was previously delineated and permitted by the USACE in an Individual Permit dated May 31, 2017; however, the permit expired on December 31, 2022. A new delineation would be required.

Collect new data throughout the existing ROW to determine the presence or absence of potential aquatic features. Utilize the methodologies as specified in the 1987 USACE Wetlands Delineation Manual, the 2010 Regional Supplement to the USACE of Engineers Wetland Delineation Manual: Atlantic and Gulf Coastal Plain Region – Version 2.0, Regulatory Guidance Letter 05-05 – Ordinary High Water Mark (OHWM) Identification, and other applicable industry guidance and standards. All aquatic features will be classified in the field by either, the simplified United States Fish and Wildlife Department's (USFWS) Cowardin System of Wetland Classification for wetlands, or observable/recorded flow regime per current United States Geologic Survey (USGS) and USACE definitions.

Present the findings of the delineation in a Waters of the U.S. Delineation Technical Report.

2. SURFACE WATER ANALYSIS FORM

Complete the TxDOT Surface Water Analysis Form.

3. ECOLOGICAL ASSESSMENT MODELING

Conduct the appropriate ecological assessment modeling within identified waters of the U.S. In order for impacts to waters of the U.S. to be calculated and mitigated correctly, the USACE Galveston district requires specific ecological assessment modeling occur within the areas of potential impact.

Wetlands are not anticipated to be found within the existing ROW, however, if found, perform the appropriate Riverine interim Hydrogeomorphic Model (iHGM) assessment (either the Riverine Forested iHGM or the Riverine Herbaceous/Shrub iHGM) in order to ascertain a numerical ecological functional value. This functional value will be used to determine what, if any, mitigation crediting purchase requirement will be due to project impacts. If impacts to waters

of the U.S. occur, mitigation credits may be required to be purchased from an approved mitigation bank for a Section 404 Clean Water Act Permit to be valid.

Impacts to creeks/streams including Flewellen Creek would require a Level 1 Stream Assessment which includes:

- In-stream Channel Alteration Assessment
- Riparian Buffer Assessment
- Visual Channel Assessments
- Macro-invertebrate Index of Biological Activity
- Fish Index of Biological Integrity

4. CLEAN WATER ACT PERMITTING (404 NATIONWIDE PERMIT)

Submit the appropriate Clean Water Act (CWA) Section 404 Permit, in the form of a Nationwide Permit (NWP) Pre-Construction Notification (PCN). If the impacts do not qualify for a NWP, a Standard Individual Permit would be required which is not included in this scope of services.

Utilize the appropriate USACE ENG Form for the permit application and attach the following:

- Applicant and Applicant's Agent Name and Contact Information
- Project Description
- Project Location Information
- Description of Proposed Impacts
- TCEQ Tier I Checklist or TCEQ Tier II Questionnaire
- Alternatives Analysis – compliant with Section 401 and 404 (b)1
- Threatened and Endangered Species Determination
- Cultural Resource Assessment

Utilize the wetland delineation information and project plans to address and calculate project impacts. The ecological assessments will be prepared and included to identify the functional values of the existing features. Once the permit application is completed, forward an electronic copy of the application for review and comment. Following incorporation of comments, submit the completed application to the USACE Galveston District for review. Upon determination that impacts to jurisdictional areas are unavoidable and will require mitigation, begin seeking out appropriate mitigation options. Any and all permit drawings will be provided by others.

Note: This scope of services does not include the purchase of compensatory mitigation credits for wetland and/or stream impacts. The entire project ROW was previously delineated and permitted by the USACE in an Individual Permit dated May 31, 2017; however, the permit expired on December 31, 2022. All impacts were mitigated; however, some waters (including Flewellen Creek) were not impacted by the previous project.

5. THREATENED AND ENDANGERED SPECIES INVESTIGATION

Assess the existing ROW for the presence or absence of federally listed and state-listed threatened and endangered species. Utilizing the Information for Planning and Consultation (IPaC) database, determine what, if any, species or their critical habitat may potentially be present within the subject property. Based on the data research, general determinations will be made to ascertain if the subject property meets the requirements for species or their critical habitats during the field efforts for waters of the U.S. delineation. Review and investigate the existing ROW for the potential state-listed species that may occur.

6. SPECIES ANALYSIS FORM AND TABLE

Following the completion of research efforts and site reconnaissance, TxDOT's Species Analysis Form and Table (and all necessary attachments), if applicable, will be prepared in accordance with the TPWD-TxDOT MOU and TxDOT's online Environmental Compliance Toolkit.

7. CULTURAL RESOURCES INVESTIGATION

The proposed undertaking would be sponsored by the FBCTRA, a political subdivision of the state of Texas. As such, the project would fall under the jurisdiction of the Antiquities Code of Texas. In addition, the project would fall under the jurisdiction of Section 106 of the National Historic Preservation Act (NHPA) via the indirect involvement of TxDOT's parent agency, the Federal Highway Administration (FHWA). As the proposed project represents a publicly sponsored undertaking, the project sponsor is required to provide the applicable regulatory agencies and the Texas Historical Commission (THC), which serves as the State Historic Preservation Office (SHPO) for the state of Texas, with an opportunity to review and comment on the project's potential to adversely affect historic properties listed on or considered eligible for listing on the National Register of Historic Places (NRHP) and/or for designation as State Antiquities Landmarks (SAL). At this time, no other federal or state jurisdiction has been identified for the project. If any additional regulatory triggers are identified as the project moves forward, evaluate whether or not any additional, out-of-scope cultural studies or agency coordination may be required.

Archeological Background Study (ABS)

Prior to initiating any fieldwork, the Engineer shall:

- Perform basic archival research of readily available State agency historical and archeological records, such as the Texas Historical Commission's (THC) *Texas Archeological Sites Atlas* and *Texas Historic Sites Atlas* online databases, Texas Archeological Research Laboratory (TARL) records, TxDOT *NRHP-Listed and Eligible Bridges of Texas* and *Historic Districts and Properties of Texas* online databases, General Land Office (GLO) records, as well as Federal agency records, such as the National Park Service's National Register of Historic Places (NRHP) database. Additionally, research relevant archives for information on previous cultural resources investigations conducted in the vicinity of the project area. The archival research will examine a 1.0-mile radius surrounding the project area.
- Review the abovementioned archives; historical, geological, and soil maps; and aerial surveys and photographs to evaluate the potential for encountering significant cultural resources within the project area.
- Define the Area of Potential Effect (APE) of the proposed project based on applicable Federal and State agency guidelines.
- Identify and map any previously recorded cultural resources within the project area for further inspection.
- Prepare an Archeological Background Study (ABS) according to TxDOT's Standards of Uniformity for Technical Reports—Review Standards for Archeological Background Studies. Coordinate review of the ABS with TxDOT unless the FBCTRA would prefer to handle the coordination.

Historic Resources Project Coordination Request (PCR)

Complete and submit a Project Coordination Request (PCR) for Historic Studies, per TxDOT Environmental Affairs Division (ENV) Historic Studies Department Standards dated 08/2019, to determine the scope of any further historic resource studies required for the project. This task would include a review of recorded National Historic Landmarks (NHL), NRHP, SAL, and Recorded Texas Historic Landmarks (RTHL) site data as published on the Texas Historic Sites Atlas and on TxDOT's Historic Bridges of Texas and Historic Districts & Properties of Texas online databases. The potential for encountering additional, unrecorded historic-age sites would be assessed by analyzing historical maps and aerial photo imagery of the project area. This task would include completion of the PCR would require certain

information be coordinated between and provided by the project sponsor and TxDOT (i.e., TxDOT CSJ #, targeted TxDOT ENV clearance date, and anticipated letting date). A Reconnaissance Survey is not included in this scope of services.

8. HAZARDOUS MATERIALS INITIAL SITE ASSESSMENT (ISA)

Conduct a hazardous materials Initial Site Assessment (ISA) to identify, to the extent feasible under the processes prescribed in the American Society of Testing and Materials (ASTM) E 1527-21, the potential for recognized environmental conditions; that is, the presence or likely presence of any hazardous substances or petroleum products on the property under conditions that indicate an existing release, a past release, or a material threat of a release of any hazardous substances or petroleum products into the ground, groundwater, or surface water of the subject property. The ISA will include the following components, the results of which will be presented in the various sections of the ISA Form:

- **Records Review:** Obtain and review updated records that will help identify recognized environmental conditions in connection with the property. Some records will pertain to properties within an additional approximate search distance in order to help assess the likelihood of potential issues from migrating substances. Included in the records review is a review of historical aerial color and black/white photographic enlargements for selected years.
- **Site Reconnaissance:** Visually and physically inspect the property and adjoining properties, to the extent not obstructed by bodies of water, adjacent buildings, or other obstacles, for evidence of hazardous substances or petroleum products.
- **Evaluation and ISA Form Preparation:** The information gathered from the previous tasks will be evaluated, and the findings will be presented in TxDOT's Hazardous Materials ISA report format that describes, at minimum, site and vicinity descriptions, current and past uses of the property and adjoining properties, information from records reviews, information from site reconnaissance and interviews, conclusions and opinions of impacts, if any, of recognized environmental conditions. Appropriate attachments will be included.

Note: Analytical testing is not included in this scope of services.

Assumptions:

- Scope of Work assumes no Chain of Title will be required for the project.
- This scope of work does not include any additional study, such as, lead, asbestos or mold testing or inspection surveys.

9. COMMUNITY IMPACTS ASSESSMENT (CIA)

If specifically authorized by FBCTRA, assess the potential of the proposed action to disrupt existing communities due to lane reduction, street closures, bisection of existing neighborhoods, or reduced access to community services, using the current census data from the U.S. Census Bureau and American Community Survey for population, racial and ethnic proportions, median household income, and family poverty statistics at the census block level, if possible. Data will be compiled in a tabular format ("Appendix A") for analysis of socioeconomics. For Environmental Justice (EJ) evaluation, also determine if affected communities are disproportionately comprised of minority or low-income populations, compared to the region and the state. Available information will also be evaluated to determine the presence of limited English proficiency (LEP) populations. Results/findings will be included in TxDOT's CIA Form, including attachments.

The Basic Environmental Services tasks would be performed for a lump sum fee of \$62,525.50.

Environmental Additional Services may include:

A. TRAFFIC NOISE ANALYSIS

If specifically authorized by FBCTRA, utilize published TxDOT guidance, to predict the potential noise exposure to receivers along name of street within the project limits, or along name of street. *Noise modeling will only be conducted for the preferred build alternative.*

- Determine baseline ambient noise levels by monitoring at receivers along the proposed project route, if required.
- Perform noise level modeling of the proposed project using the Federal Highway Administration (FHWA) Traffic Noise Model (TNM, Version 2.5) and 2019 Noise Guidelines (or other current guidelines).
- Determine the noise impacts and, if necessary, evaluate potential abatement measures such as noise barriers.
- Analyze noise data and prepare a *Traffic Noise Technical Report* (TNTR) for submittal to the FBCTRA and TxDOT. Standard recommended template language per TxDOT's Traffic Noise guidance and standards will be used in the *Air Quality Technical Report* (AQTR).
- Consider comments provided by reviewing agencies and, if necessary, revise the technical report.

Utilize high resolution aerial maps (if available) with alignments; identification of property owners and occupants; MicroStation files of both horizontal and vertical alignments (including topography and structures within about 500 feet of the proposed roadway); and all predicted design year traffic counts, year breakdowns (percent cars, heavy trucks, medium trucks, buses, and motorcycles), and k-factors for the alignments and main arterial roads. Traffic data suitable for the noise analysis to be provided by others. Noise workshops are not included in this scope of services.

The Traffic Noise Analysis task would be performed for a lump sum fee of \$45,445.50.

B. NOTICE AND OPPORTUNITY TO COMMENT (NOC)

If specifically authorized by FBCTRA, send a Notice and Opportunity to Comment (NOC) to each affected property owner and all adjacent landowners, as well as project area stakeholders, to solicit comments on the proposed project. The results of the NOC would dictate whether further public involvement is required. Provide NOC activities, as identified in the following:

- Create a database of names and addresses of affected and/or adjacent landowners that will receive notification letters.
- Draft NOC notification letters for review and approval by TxDOT, and then prepare final letters for mailout (mail affected landowner letters, if FBCTRA desires). A minimum 15-day comment period will be afforded the public.
- Prepare any NOC documentation, including copies of all mailouts, mailing lists, and a summary of the responses received from any affected and/or adjacent landowner.

The Notice and Opportunity to Comment task would be performed for a lump sum fee of \$11,420.00.

C. TxDOT VIRTUAL PUBLIC MEETING WITH IN-PERSON OPTION

If specifically authorized by FBCTRA, one (1) virtual public meeting (VPM) with an in-person option (i.e., hybrid) will be held to support the project. If a Spanish or other language speaking interpreter will be needed; the Engineer or FBCTRA will provide such personnel. Provide the following public coordination activities:

- If an In-Person Option is afforded, identify potential public meeting locations and, upon FBCTRA approval, secure a facility for the public meeting.
- Develop database of names and addresses of adjacent landowners, public officials, and any other stakeholders that will receive notification letters.
- Draft public meeting letters for review and approval by FBCTRA.
- Draft a newspaper notice for public meeting and, upon approval by FBCTRA, schedule for publication in one major newspaper, one local newspaper, and in one Spanish language newspaper (if applicable), in accordance with TxDOT's Environmental Handbook for Public Involvement.
- Mail public meeting notices to adjacent property owners.
- Draft and prepare comment forms for obtaining public input regarding the proposed project.
- If an In-Person Option is afforded, prepare signs for use at the public meeting to direct traffic to parking areas and the meeting room, and for the stations at the meeting, such as Welcome/Registration, Proposed Design, Environmental (Exhibit Boards and Constraints Map, if applicable), and Comments.
- If an In-Person Option is afforded, provide staff for the Welcome/Registration, Environmental, and Comments stations, and to mingle among the public to answer questions or direct, as needed, to the appropriate FBCTRA official.
- Prepare a pre-recorded, narrated presentation for posting online as part of the virtual component of the Public Meeting.
- Draft responses to all public comments and compile all meeting information into a separate Public Meeting Documentation Report for submittal to FBCTRA for approval.

Note: Assumes public notice publication cost for a small local paper will not exceed \$500.00 and public notice publication cost for a regional paper will not exceed \$3,000.00. Public notice publication is a one-time event for the number of days noted. Also assumes a translator may be provided by the Engineer for one language (e.g., Spanish). If LEP data indicates a second language interpreter is warranted, a supplemental may be required to cover that cost.

The TxDOT Virtual Public Meeting with In-Person Option task would be performed for a lump sum fee of \$61,365.50.

D. TRANSPORTATION CONFORMITY REPORT FORM

If specifically authorized by FBCTRA, prepare the TxDOT Transportation Conformity Report Form to document project-level compliance with transportation conformity requirements.

The Transportation Conformity Report Form task would be performed for a lump sum fee of \$2,640.00.

Environmental - Basic Services (Lump Sum)	ENV SUPPORT MANAGER	PROJECT COORDINATOR III	PROJECT COORDINATOR II	PROJECT COORDINATOR I	GIS ANALYST II	TOTAL LABOR HRS. & COSTS
1. Waters Of The U.S. Delineation	2	8		24	8	42
2. Surface Water Analysis Form	1			16		17
3. Ecological Assessment Modeling	2	8		18		28
4. Clean Water Act Permitting (404 Nationwide Permit)	4	16		120	4	144
5. Threatened and Endangered Species Investigation		2		2		4
6. Species Analysis Form and Table	2			24		26
7. Cultural Resources Investigation	2	10	12	4	12	40
8. Hazardous Materials Initial Site Assessment (ISA)	2			40	4	46
9. Community Impacts Assessment	2			40	4	46
HOURS SUB-TOTALS	17	44	12	288	32	393
CONTRACT RATE PER HOUR	\$240.00	\$170.00	\$160.00	\$150.00	\$165.00	
TOTAL LABOR COSTS	\$4,080.00	\$7,480.00	\$1,920.00	\$43,200.00	\$5,280.00	\$61,960.00
% DISTRIBUTION OF STAFFING	4.3%	11.2%	3.1%	73.3%	8.1%	
SUBTOTAL						\$61,960.00

Direct Expenses - Basic Services		UNITS	COST	QUANTITY		TOTAL COST
Mileage		Mile	\$0.655	100		\$65.50
Hazardous Materials Data Base Search		Each	\$500.00	1		\$500.00
SUBTOTAL DIRECT EXPENSES - BASIC SERVICES						\$565.50

Summary - Basic Services (Lump Sum)	Total Costs
Labor	\$61,960.00
Direct Expenses	\$565.50
GRAND TOTAL	\$62,525.50

Environmental - Additional Services (Actual Hourly Rate)	ENV SUPPORT MANAGER	PROJECT COORDINATOR III	PROJECT COORDINATOR II	PROJECT COORDINATOR I	GIS ANALYST II	TOTAL MH	TOTAL COSTS
If Required Tasks:							
A. Traffic Noise Analysis	4	246		14		264	\$44,880.00
B. Notice and Opportunity to Comment	8			60		68	\$10,920.00
C. TxDOT Virtual Public Meeting with In-Person Option	40	60		200		300	\$49,800.00
D. Transportation Conformity Report Form	1			16		17	\$2,640.00
HOURS SUB-TOTALS	53	306	0	290	0	649	
CONTRACT RATE PER HOUR	\$240.00	\$170.00	\$160.00	\$150.00	\$165.00		
TOTAL LABOR COSTS							
% DISTRIBUTION OF STAFFING	8.2%	47.1%	0.0%	44.7%	0.0%		
SUBTOTAL							\$108,240.00

Summary - Additional Services (Actual Hourly Rate)	Total Costs
A. Traffic Noise Analysis	
Labor	\$44,880.00
Unit Costs	\$565.50
SUBTOTAL	\$45,445.50
B. Notice and Opportunity to Comment	
Labor	\$10,920.00
Unit Costs	\$500.00
SUBTOTAL	\$11,420.00
C. TxDOT Virtual Public Meeting with In-Person Option	
Labor	\$49,800.00
Unit Costs	\$11,565.50
SUBTOTAL	\$61,365.50
D. Transportation Conformity Report Form	
Labor	\$2,640.00
Unit Costs	\$0.00
SUBTOTAL	\$2,640.00

Direct Expenses - Additional Services (Actual Cost)		UNITS	COST	QUANTITY	Total Cost
A. Traffic Noise Analysis					
Mileage		Mile	\$0.655	100	\$65.50
Noise Meter		Each	\$500.00	1	\$500.00
B. Notice and Opportunity to Comment					
Mass Mailing (up to 250 pieces)		Each	\$500.00	1	\$500.00
C. TxDOT Virtual Public Meeting with In-Person Option					
Mass Mailing (up to 250 pieces)		Each	\$500.00	1	\$500.00
PI Advertisement (Local Paper - English & Spanish)		Each	\$500.00	2	\$1,000.00
PI Advertisement (Regional Paper)		Each	\$3,000.00	1	\$3,000.00
PI meeting location rental		Each	\$1,500.00	1	\$1,500.00
PI security		Each Officer	\$250.00	2	\$500.00
PI equipment		Each	\$2,500.00	1	\$2,500.00
Virtual Public Meeting Web service		Each	\$2,500.00	1	\$2,500.00
Mileage		Mile	\$0.655	100	\$65.50
SUBTOTAL DIRECT EXPENSES - ADDITIONAL SERVICES					\$12,631.00

Summary - Additional Services (Actual Hourly Rate)	Total Costs
Labor	\$108,240.00
Direct Expenses	\$12,631.00
GRAND TOTAL	\$120,871.00

Attachment B

Compensation for Consultant's Scope of Services

Time and Material Maximum Loaded Rates

Labor Classification		Hourly Rate
Env Support Manager		\$240.00
Project Coordinator III		\$170.00
Project Coordinator II		\$160.00
Project Coordinator I		\$150.00
GIS Analyst II		\$165.00
Other Direct Expenses	Unit	Cost/Unit
Mileage	Mile	\$0.66
Noise Meter	Each	\$500.00
Mass Mailing (up to 250 pieces)	Each	\$500.00
PI Advertisement (Local Paper - English & Spanish)	Each	\$500.00
PI Advertisement (Regional Paper)	Each	\$3,000.00
PI meeting location rental	Each	\$1,500.00
PI security	Each Officer	\$250.00
PI equipment	Each	\$2,500.00
Virtual Public Meeting Web service	Each	\$2,500.00
Hazardous Materials Data Base Search	Each	\$500.00

[illegible]

ATTACHMENT C

The Engineer shall furnish certificates of insurance to the FBCTRA evidencing compliance with the insurance requirements hereof. Certificates shall indicate name of the Engineer, name of insurance company, policy number, term of coverage and limits of coverage. The Engineer shall cause its insurance companies to provide the FBCTRA with at least 30 days prior written notice of any cancellation or non-renewal of the insurance coverage required under this Agreement. The Engineer shall obtain such insurance from such companies having a Bests rating of B+/VII or better, licensed or approved to transact business in the State of Texas, and shall obtain such insurance of the following types and minimum limits:

- a. Workers' Compensation insurance in accordance with the laws of the State of Texas, or state of hire/location of Services, and Employers' Liability coverage with a limit of not less than \$1,000,000 each employee for Occupational Disease, \$1,000,000 policy limit for Occupational Disease; and Employer's Liability of \$1,000,000 each accident.
- b. Commercial General Liability insurance including coverage for Products/Completed Operations, Blanket Contractual, Broad Form Property Damage, Personal Injury/Advertising Liability, and Bodily Injury and Property Damage with limits of not less than:
 - \$2,000,000 general aggregate limit
 - \$1,000,000 each occurrence, combined single limit
 - \$2,000,000 aggregate Products, combined single limit
 - \$1,000,000 aggregate Personal Injury/Advertising Liability
 - \$50,000 Fire Legal Liability
 - \$5,000 Premises Medical
- c. Business Automobile Liability coverage applying to owned, non-owned and hired automobiles with limits not less than \$1,000,000 each occurrence combined single limit for Bodily Injury and Property Damage combined.
- d. Umbrella Excess Liability insurance written as excess of Employer's Liability, with limits not less than \$2,000,000 each occurrence combined single limit.
- e. Professional Liability insurance with limits not less than \$2,000,000 each claim/annual aggregate.

The FBCTRA and the FBCTRA's Directors shall be named as additional insureds, or be satisfied through a blanket additional insured endorsement, to all coverages required above, except for those requirements in paragraphs "a" and "e." All policies written on behalf of the Engineer shall contain a waiver of subrogation in favor of the FBCTRA and the FBCTRA's Directors, with the exception of insurance required under paragraph "e."