

**PROFESSIONAL SERVICES CONTRACT
WEBB COUNTY AND TERRACON CONSULTANTS, INC.
WEBB COUNTY R.F.Q. 2020-003 GEO-TECH TESTING SERVICES
WEBB COUNTY ROAD PROJECTS**

WHEREAS at a Webb County Commissioner’s Court Meeting held on the 11th day of May, 2020, the Webb County Commissioner’s Court approved and awarded a Professional Services Contract to provide the Webb County with geo-technical related services, as needed for the Webb County Wormser Rd. Construction Project to **Terracon Consultants, Inc.**

NOW, THEREFORE, IT IS AGREED by, and between the parties hereto the County of Webb, acting by and through its Commissioner’s Court, hereinafter referred to as “County” and **Terracon Consultants, Inc.**, hereinafter referred to as “Independent Contractor” shall provide “County” with the service proposal as more particularly described and attached herein as Exhibit A “Teracon GEO-TECH Engineering Services Proposal”.

Effective Date and Term and Termination Date of Professional Services Contract:

The effective date of this Agreement is May 11, 2020 but shall not officially commence until delivery and acknowledged receipt of a written and signed notice to proceed issued by Webb County to **Terracon Consultants, Inc.** The term for the completion of the scope of services for this project shall be _____ calendar days from date set forth in the Official Webb County Notice to Proceed, and shall terminate upon completion of all scope of work/job tasks.

1. Independent Contractor

It is hereby covenanted and agreed by the parties that the services to be provided to “County” by the Independent Contractor and/or Professional shall incorporate the scope of work and requirements as set forth and attached hereto as Exhibit “A” “Webb County Wormser Rd./Geo-Technical Engineering Services Proposal”, and incorporated by reference for all intents and purposes. Independent Contractor/Professional shall perform the services as listed under Exhibit A “Engineering Services Proposal” (attached hereto).

2. Compensation

The County of Webb shall pay the Independent Contractor a total lump sum in the amount of EIGHTEEN THOUSAND FOUR HUNDRED FIFTY AND NO/100 DOLLARS (\$18,450.00) for goods/services provided pursuant to this agreement which have been authorized by an Official Purchase Order signed by the Webb County Purchasing Agent. The County Auditor will only authorize payment for the goods/services described on the Official Purchase Order unless otherwise permitted by law or the Webb County Purchasing Policy. Further, compensation for unauthorized change orders will not be paid by Webb County. Only change orders authorized by the Purchasing Agent through an Official Purchase Order will be paid once all goods are received and/or services completed. No other County Official, employee, officer or Elected Official is authorized to approve purchases and/or changes to purchase orders unless approved by the Webb County Purchasing Agent.

3. Billing Address

All invoices must be submitted to the Webb County Business Office in BOTH electronic format and mail and/or hand delivery to the following address:

Webb County
1110 Washington Street, Ste. 203
Laredo, Texas 78040
Attn: Business Office

Or email to: apinvoices@webbcountytexas.gov
ALL invoices must reference Purchase Order #

4. Independent Contractor

In the performance of work, duties, and obligations required of the Independent Contractor whether one or more, under this Agreement, it is mutually understood, and agreed, that Independent Contractor is, at all times, acting and performing as an independent Contractor. Webb County's sole interest is to assure that the Independent Contractor services be performed and rendered in a competent, efficient, and satisfactory manner. The Independent Contractor hereby agrees to perform the services in strict accordance with approved methods, and practices, in the general field of his expertise.

5. Ethical Standards

The Independent Contractor/Bidder warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for commission, percentage, brokerage, or contingent fee excepting bona fide employees of bona fide established commercial or selling agencies maintained by the Independent Contractor/Bidder for the purpose of securing business. For breach or violation of this warranty, the County shall have the right in addition to any other right or rights to cancel this contract without liability and to deduct from the contract price, or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

6. No Conflicts

Independent contractor represents and warrants that contractor has no actual or potential conflicts of interest in providing services to County under this contract and the contractor's provision of services under this contract would not reasonably create an appearance of impropriety.

7. Additional Services and Expenses

Any and all additional services, parts, costs, fees or expenses, not included in this agreement, shall require both a written request by the Independent Contractor to the County and prior formal approval by a quorum of the Webb County Commissioner's Court at either a regular, special and/or emergency called meeting of the "County". The County shall not be responsible for and/or shall not compensate the Independent Contractor for these costs without both a written request and prior approval by the County.

8. Terms and Conditions

The Independent Contractor certifies, and affirms, that he/she/company is not legally, or professionally, disqualified from the performance of the duties under this Agreement.

Independent Contractor shall advise the County, in writing, of any change in status of the Independent Contractor which may materially affect the ability of Independent Contractor to legally, or professionally, carry out the duties herein.

9. Access to Criminal History Record and Termination of Contract or Disqualification of Bid for Cause

Please be advised that Webb County is entitled to obtain the criminal history information of any person and/or business owner who contracts with the County in accordance with Section 411.1295 of the Texas Government Code. In the event that any criminal history of a person or business owner who contracts with Webb County is discovered, then at that event, Webb County at its sole discretion reserves the exclusive right and shall be entitled to immediate termination of the contract and/or immediate disqualification of bid submittal in the event that such criminal history is discovered, by providing notice to the person and/or business owner of such termination and/or disqualification of bid submittal in accordance with the Notice provisions set forth in Section 13 herein-below.

10. Termination for Convenience

Termination for convenience, also known as a no-fault termination, allows the County to terminate any contract, in whole or in part, at any time in its sole discretion, if it is determined that the termination is in the best interest of the County. As notified by the Purchasing Agent through a 15 day written notice / via email of such intent to terminate contract for convenience.

Purchasing provides the Independent Contractor a written notice specifying the extent of termination and the effective date, providing as much notice as possible. The Independent Contractor is generally paid for allowable costs incurred up to the effective date of termination. The County is not liable for payment to the Independent Contractor related to the terminated portion of the work or any work performed or costs incurred after the effective date of the termination.

11. Termination for Default

A contract may be terminated for default when (a) the County concludes that the Independent Contractor fails to perform, make progress, or in any way breaches the contract and continues to do so after receiving written notice/email notice of such default/issues and fails to cure such default/issues within 10 working days (b) Termination for default should be used as the last resort. The County should do everything practicable to assist the Independent Contractor in curing a default. Factors to consider before making a decision to terminate for default include: (1) The provisions of the contract and applicable regulations, (2) The specific contractual failure(s) and the explanation provided for the failures, (3) The urgency of the need for the contracted supplies or services, (4) Actions the County may have taken that aggravated the problems, (4) The availability of the supplies or services from other sources and the time required to obtain them, and (5) Availability of funds or resources to re-purchase if the costs cannot be recovered from the defaulting Independent Contractor.

12. Notices

All notices called for, or contemplated, hereunder shall be in writing, and shall be deemed to have been duly given, when personally delivered and/or via e-mail, or seventy-two (72) hours after mailed to each party by certified mail, return receipt requested, postage prepaid.

Any notices required to be sent hereunder shall be sent as follows:

TO: Terracon Consultants, Inc. c/o
Arturo Barrera, P.E./Off. Mgr.
615 Gale St.
Laredo, Texas 78041
(956) 724-3097
E-Mail: art.barrera@terracon.com

TO: Jose Angel Lopez III, CTPM
Webb County Purchasing Agent
1110 Washington Street, Ste. 101
Laredo, Texas 78040
(956) 534-4125
E-Mail: joel@webbcountytexas.gov

WEBB COUNTY, TEXAS
Luis Perez-Garcia, P.E./Webb County Engineer
Webb County Engineering Dept.
(956) 523-4054
lperezgarcia@webbcountytexas.gov

13. Severability

Each paragraph, and provision, hereof is severable from the entire Agreement, and if any provision is declared invalid, the remaining provisions shall nevertheless remain in effect.

14. Prohibitions against Assignment.

No assignment or transfer of this Agreement can be made without written consent of both parties, hereto.

15. Hold Harmless

The independent contractor shall indemnify and hold Webb County harmless from all claims for personal injury, death and/or property damage resulting directly or indirectly from independent contractor's performance. Independent contractor shall procure and maintain, with respect to the subject matter of this ITB, appropriate insurance coverage including, as a minimum, public liability and property damage with adequate limits to cover Bidder's liability as may arise directly or indirectly from work performed and goods or services sold and under the terms of this ITB. Certification of such coverage must be provided to the County upon request.

16. Venue/Laws of Texas

This Agreement shall be governed by, and construed in accordance with, the laws of the State of Texas, and the exclusive venue for any and all legal disputes between the parties shall be enforced and shall lie in the Webb County, Texas.

17. Entire Agreement

This Agreement incorporates all the agreements, covenants, and understandings between the parties herein concerning the subject matter hereof; and all such covenants, agreements, and understandings have been merged into this written Agreement. No other prior agreement, or

understandings, verbal or otherwise, of the parties, or their agents, shall be valid, or enforceable, unless signed by both parties, and attached hereto, and/or embodied herein.

18. Amendment

This Agreement may be modified, only in writing, executed by both parties, and approved by a majority of a quorum of the Webb County Commissioner’s Court.

19. Confidentiality

Any confidential information provided to, or developed by, Independent Contractor in the performance of the Agreement shall be kept confidential, unless otherwise provided by law, and shall not be made available to any individual, or organization without the prior approval of COUNTY. All work products, whether in draft or final form is the sole property of Webb County and may not be used by INDEPENDENT CONTRACTOR for any purpose without written consent of COUNTY.

20. Headings

The headings used herein are for convenience only, and shall not constitute a part hereof, or affect the construction or interpretation hereof.

21. Counterparts

This Agreement may be executed in any number or, and by, the different parties hereto on separate counterparts, each of which when so executed, shall be deemed to be an original, and such counterparts shall, together, constitute but one and the same document.

22. Terminology and Definitions

All personal pronouns used herein, whether used in the masculine, feminine, or neutral, shall include all other genders; the singular shall include the plural, and the plural shall include the singular.

EXECUTED in duplicate originals this ____ day of MAY, 2020.

WEBB COUNTY, TEXAS

TERRACON CONSULTANTS, INC.

TANO E. TIJERINA
Webb County Judge
Dated: May ____, 2020

By: _____
Arturo Barrera, P.E./Off. Mgr.
Date: May ____, 2020

ATTEST:

Margie Ramirez Ibarra
Webb County Clerk

APPROVED AS TO FORM:

Ray Rodriguez

Asst. General Counsel

Webb County Civil Legal Division*

*By law, this office may only advise or approve contracts or legal documents on behalf of its clients. It may not advise or approve a contract or legal document on behalf of other parties. Our review of this document was conducted solely from the legal perspective of our client. Our approval of this document was offered solely for the benefit of our client. Other parties should not rely on this approval, and should seek review and approval of their own respective attorney(s).

**Passed and Approved at the Webb County
Commissioner's Court meeting held on the 11th
day of May, 2020, Item No.**