

2023 SEP -6 PM 12:04

**AGREEMENT FOR ENGINEERING SERVICES**  
Rio Bravo Drainage Channel and Effluent Outfall Line Erosion Remediation

WEBB COUNTY, TEXAS

This Agreement, made this 28<sup>th</sup> day of August, 2023, by and between WEBB COUNTY, a political subdivision of the State of Texas, hereafter referred to as the OWNER, and Top Site Civil Group, LLC, hereinafter referred to as the ENGINEER. *all*

BY \_\_\_\_\_ DEPUTY

The Engineering services to be provided for pursuant to this agreement are for the Rio Bravo Drainage Channel and Effluent Outfall Line Erosion Remediation as funded by Webb County.

**General Project Description:** ENGINEER shall provide Civil Engineering, including but not limited to, a Preliminary Engineering Report (PER), surveying, coordination with the International Boundary and Water Commission (IBWC), construction documents, opinion of probable cost, construction supervision and coordination meetings needed to: remediate/repair damage to the (1) county utility's effluent line at terminus of Centeno Lane Rio Bravo, Texas and (2) the drainage channel outfall structure north of Rio Bravo, Texas (see Exhibit D for locations) to correct and remediate the current deficiencies and to prevent future erosion. This project will be delivered in two phases. Phase I Preliminary Engineering Report (PER) which will identify the means and methods OWNER should consider for the repair and Phase II which includes the design of the improvements and construction supervision, including construction documents, specifications and assistance during the bidding and construction phases

ENGINEER shall work with OWNER to address the proposed Project's timeline and deliverables. Engineering Reports shall be provided as may be needed by OWNER and/or any federal, state or local agency having jurisdiction for the project. During the Construction Phase of the Project, ENGINEER shall assist Webb County with construction related services included but not limited to reviewing Requests for Information ("RFIs"), Change Orders ("COs") Payment Requests and periodic review of the construction and provide the necessary As-Built Plans (Drawings) to OWNER.

The ENGINEER agrees to perform the various professional engineering services for the planning, design, and construction of said Project in accordance with the provisions of this Agreement.

## SECTION A - GENERAL PROVISIONS

### 1. General

(a) This Agreement represents the entire and integrated Agreement between the OWNER and the ENGINEER for the Project and supersedes all prior negotiations, representations or agreements, either written or oral. In the event any provisions of this Agreement or any subsequent addendum shall be held to be invalid and unenforceable, the remaining provisions shall be valid and binding upon the parties. One or more waivers by either party of any provision, term, condition or covenant shall not be construed by the other party as a waiver of a subsequent breach of the same by the other party. The General Provisions of this Agreement supersede any conflicting SPECIAL PROVISIONS.

(b) The ENGINEER will cooperate and work closely with OWNER.

(c) The ENGINEER will attend conferences or public hearings or meetings with the OWNER and/or other interested parties and provide assistance (as it relates to ENGINEERS Scope of Service) with such undertakings as may be reasonably necessary in connection with this Project.

### 2. Responsibilities of the ENGINEER

(a) The ENGINEER shall be responsible for the professional quality, technical accuracy, timely completion, and the coordination of all design drawings, specifications, reports, and other services furnished by the ENGINEER under this Agreement. The ENGINEER shall keep the OWNER informed of the

performance of the ENGINEER'S duties under this Agreement. The ENGINEER, shall promptly and without additional compensation, correct or revise any errors, omissions, or other deficiencies in the design drawings, specifications, reports, and other services.

(b) The ENGINEER shall perform services (1) with professional skill and care ordinarily provided by competent engineers practicing under the same or similar circumstances and professional license, and (2) as expeditiously as is prudent considering the ordinary professional skill and care of a competent engineer. Engineer shall comply with all applicable state, federal and local laws, ordinances, rules, and regulations relating to the work to be performed and Engineer's performance. Additionally, Engineer shall follow any applicable requirements provided by OWNER in effect on the date of execution of any agreement OWNER may have executed with any state agency which has participated in funding this project (see ARPA Requirements, attached hereto and incorporated herein as if set out in full).

(c) The OWNER'S review or approval of design drawings, specifications, reports, and other services furnished hereunder shall not in any way relieve the ENGINEER of responsibility for the technical adequacy of the work. Neither the OWNER'S or any local, or state agency review, approval or acceptance of, nor payment for any of the services shall be construed as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

(d) The ENGINEER shall be and shall remain liable, in accordance with applicable law, for all damages to the OWNER caused by the ENGINEER'S negligent performance of any of the services furnished under this Agreement, except for errors, omissions or other deficiencies to the extent attributable to the OWNER or OWNER-furnished data. The ENGINEER shall not be responsible for any time delays in the Project caused by circumstances beyond the ENGINEER'S control.

(e) The ENGINEER'S obligations under this Section 2 are in addition to the ENGINEER'S other express or implied assurances under this Agreement or State law and in no way diminish any other rights that the OWNER may have against the ENGINEER for faulty materials, equipment, or work.

### **3. Responsibilities of the OWNER**

(a) The OWNER shall provide the ENGINEER copies of any and all completed or draft designs, plans, reports, studies, surveys and technical papers for the proposed project area, which OWNER may have, which would be of use to assist the ENGINEER in the design of the project.

(b) The OWNER shall provide to the ENGINEER full and free access to enter upon all property required for the performance of the ENGINEER'S services under this Agreement.

### **4. Changes**

(a) The OWNER may, at any time, by written order make changes within the general scope of this Agreement in the services or work to be performed. If such changes cause an increase or decrease in the ENGINEER'S cost or time required to perform any services under this Agreement, whether or not changed by any order, the OWNER shall make an equitable adjustment and modify this Agreement in writing. The ENGINEER must assert any claim for adjustment under this clause in writing within thirty (30) days from the date it receives the OWNER'S notification of change, unless the OWNER grants additional time before the date of final payment. At no additional cost to OWNER, OWNER shall have the right, within the first sixty (60) business days of notice to proceed, to direct ENGINEER to prepare construction plans and specifications for construction of the project in two or more phases.

(b) No services for which the ENGINEER will charge an additional compensation shall be furnished without the written authorization of the OWNER.

## **5. Termination of Contract**

(a) This Agreement may be terminated in whole or in part in writing by either party in the event of substantial failure by the other party to fulfill its obligations under this Agreement through no fault of the terminating party, provided that no such termination may be effected unless the other party is given (1) not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate and (2) an opportunity for consultation with the terminating party before termination.

(b) This Agreement may be terminated in whole or in part in writing by OWNER for its convenience, provided that the parties are given (1) not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate, and (2) an opportunity for consultation with the parties prior to termination.

(c) If termination for default is effected by the OWNER, an equitable adjustment in the price provided for in this Agreement shall be made, but (1) no amount shall be allowed for anticipated profit on unperformed services or other work, and (2) any payment due to the ENGINEER at the time of termination may be adjusted to cover any additional costs to the OWNER because of the ENGINEER'S default.

(d) If termination for default is effected by the ENGINEER, or if termination for convenience is effected by the OWNER, the equitable adjustment shall include a reasonable profit for services or other work performed. The equitable adjustment for any termination shall provide for payment to the ENGINEER for services rendered and expenses incurred prior to the termination, in addition to termination settlement costs reasonably incurred by the ENGINEER relating to commitments which had become firm prior to the termination.

(e) Upon receipt of a termination action under paragraphs (a) or (b) above, the ENGINEER shall (1) promptly discontinue all affected work (unless the notice directs otherwise), (2) proceed to cancel promptly all existing orders and contracts insofar as these orders or contracts are chargeable to this agreement. As soon as practicable after receipt of notice of termination, the Engineer shall submit a statement showing in detail the services performed under this agreement to the date of termination and (2) deliver or otherwise make available to the OWNER within ten (10) days copies of all data, design drawings, specifications, reports, estimates, summaries and such other information and materials as may have been accumulated by the ENGINEER in performing this Agreement, whether completed or in process.

(f) Upon termination under paragraphs (a) or (b) above, the OWNER may take over the work and may award another party an Agreement to complete the work under this Agreement.

(g) If, after termination for failure of the ENGINEER to fulfill contractual obligations, it is determined that the ENGINEER had not failed to fulfill contractual obligations, the termination shall be deemed to have been for the convenience of the OWNER. In such event, adjustment of the Agreement price shall be made as provided in paragraph (d) of this Section 5 above.

## **6. Payment**

(a) The ENGINEER will submit to the OWNER for services rendered an itemized billing statement showing charges for such services accompanied by any additional documentation requested by the OWNER. These statements shall be sworn to be true and correct by the ENGINEER, or an officer or agent thereof, having knowledge of the facts set forth. The ENGINEER shall not include on these statements any item payable or chargeable under any other agreement with the OWNER. The ENGINEER shall not be entitled to any compensation or expense reimbursement other than as set forth in this Agreement. The OWNER shall review each statement and approve it with modifications, if any, as he may deem appropriate. The OWNER agrees to pay each statement plus all amounts payable within 30 days after the County Auditor approves it. Further, the approval or payment of each statement shall not be considered evidence of performance by the ENGINEER to the point indicated by such statement or of the receipt or acceptance by OWNER of the work covered by the statement.

(b) Payments for ENGINEERING SERVICES of the Design Phase (Section B-1 through B-9 of this Agreement) and for ADDITIONAL ENGINEERING SERVICES of the Design Phase (Section D of this Agreement) which are contracted by a Firm Fixed Price Method, are due and payable monthly on the basis of the ENGINEER'S estimate of the percentage of completion of the phase or task, as appropriate.

(c) Payments for ENGINEERING SERVICES during the Construction Phase (Section B-11 through B-22 of this Agreement) are due and payable monthly based on percent ratios identical to those approved by the ENGINEER as a basis upon which to make partial payments to the contractor(s). Owner shall make payment to the Engineer within 30 days after receipt of an acceptable invoice.

(d) Payment for ADDITIONAL ENGINEERING SERVICES for the Construction Phase (Section D of this Agreement) performed in accordance with this Agreement are due and payable in accordance with the following:

1. One hundred percent (100%) of the firm fixed price upon completion and acceptance by the OWNER of completed ADDITIONAL ENGINEERING SERVICES.

(e) No payment request made under this clause shall exceed the estimated amount and value of the work and services performed by the ENGINEER under this Agreement. The ENGINEER shall prepare the estimates of work performed and shall supplement them with such supporting data as the OWNER may require.

(f) Reimbursable Expenses incurred by ENGINEER directly related to the Project, as follows:

1. Permitting and other fees required by authorities having jurisdiction over the Project;
2. Printing, reproductions, plots, and standard form documents;
3. Postage, handling, and delivery;
4. Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner in writing or required for the Project;
5. Registration fees and any other fees charged by the Certifying Authority or by other entities as necessary to achieve the Sustainable Objective.
6. For Reimbursable Expenses the compensation shall be the expenses incurred by ENGINEER plus one percent (1%) of the expenses incurred.

(g) Upon satisfactory completion of the work performed under this Agreement, as a condition before final payment under this Agreement or as a termination settlement under this Agreement the ENGINEER shall execute and deliver to the OWNER a release of all claims against the OWNER arising under, or by virtue of, this Agreement, except claims which are specifically exempted by the ENGINEER to be set forth therein. Unless otherwise provided in this Agreement, by State law or otherwise expressly agreed to by the parties to this Agreement, final payment under this Agreement or settlement upon termination of this Agreement shall not constitute a waiver of the OWNER'S claims against the ENGINEER or its sureties under this Agreement or applicable performance and payment bonds.

(h) Final payment under this Agreement or settlement upon termination of this Agreement shall not constitute a waiver of the OWNER'S claims against the ENGINEER under this Agreement.

## **7. Project Design**

(a) Unless otherwise approved by the Owner, the ENGINEER shall specify materials, equipment, and processes which are readily available through competitive procurement and consistent with the OWNER'S requirements and any applicable granting agency regulations or requirements.

(b) Project design criteria should be consistent with the criteria set forth in any applicable Facilities Plan and meet the requirements of applicable granting agency regulations or requirements.

## **8. Audit and Access to Records**

(a) The ENGINEER shall maintain books, records, documents, and other evidence directly pertinent to performance on work under this Agreement in accordance with generally accepted accounting principles and practices consistently applied, and State regulations in effect on the date of execution of this Agreement. The ENGINEER shall also maintain the financial information and data used by the ENGINEER in the preparation of support of the cost submission required under state and federal regulations in effect on the date of execution for any negotiated agreement or amendment thereof and a copy of the cost summary submitted to the Owner. The OWNER, or any state or federal agency participating in, or contributing funding to this project, or any of their duly authorized representatives shall have access to such books, records, documents, and other evidence for inspection, audit, and copying during normal business hours. The ENGINEER will provide proper facilities for such access and inspection.

(b) The ENGINEER agrees to make paragraphs (a) through (f) applicable to all agreements and subcontracts it awards and to make paragraphs (a) through (f) of this clause applicable to all amendments directly related to Project performance.

(c) Audits conducted under this provision shall be in accordance with generally accepted auditing standards and established procedures and guidelines of the reviewing or audit agency(ies).

(d) The ENGINEER agrees to disclose all information and reports resulting from access to records under paragraphs (a) and (b) of this clause to any of the agencies referred to in paragraph (a).

(e) Records under paragraphs (a) and (b) above shall be maintained and made available by the ENGINEER during performance of services under this Agreement and for three (3) years from the date of project acceptance by OWNER. In addition, those records which relate to any controversy arising under this Agreement, litigation, the settlement of claims arising out of such performance or to costs or items to which an audit exception has been taken shall be maintained and made available by the ENGINEER until three (3) years after the date of resolution of such appeal, litigation, claim or exception.

(f) This right of access clause applies to financial records pertaining to all agreements (except formally advertised, competitively awarded, fixed price agreements) and all agreement amendments regardless of the type of agreement related to this Agreement for Engineering Services. In addition, this right of access applies to all records pertaining to all agreements and agreement amendments:

1. to the extent the records pertain directly to Agreement performance; or,
2. if there is any indication that fraud, gross abuse or corrupt practices may be involved; or,
3. if the Agreement is terminated for default or for convenience.

## **9. Subcontracts**

(a) Any subcontractors and outside associates or outside consultants required by the ENGINEER in connection with services under this Agreement will be limited to such individuals or firms as were specifically identified and agreed to during negotiations, or as the OWNER specifically authorizes during the performance of this Agreement. The OWNER must give prior approval, in writing, for any substitutions, additions or deletions to such subcontractors, associates, or consultants.

(b) The ENGINEER may not subcontract services to subcontractors or consultants without the OWNER'S prior written approval.

(c) The ENGINEER shall not propose a subcontract without first determining that the entity to perform the work is a responsible contractor that possesses the potential ability to perform successfully under the terms and conditions of the proposed procurement. The ENGINEER shall provide a written statement on

its finding of the responsibility of the contractor and shall include the proposed cost and pricing information for the work. For the purposes of this section a responsible contractor is one that has:

1. Financial resources, technical qualifications, experience, organization and facilities adequate to carry out the project, or a demonstrated ability to obtain these;
2. Resources to meet the completion schedule contained in the subagreement;
3. A satisfactory performance record for completion of subagreement;
4. Accounting and auditing procedures adequate to control property, funds and assets.

**10. Insurance**

The ENGINEER further agrees to obtain and maintain, at the ENGINEER'S expense, such insurance as will protect the ENGINEER from claims under the Workman's Compensation Act and such comprehensive general liability insurance as will protect the OWNER and the ENGINEER from all claims for bodily injury, death, or property damage which may arise from the performance by the ENGINEER or by the ENGINEER'S employees of the ENGINEER'S functions and services required under this Agreement. ENGINEER shall also carry Professional Liability Insurance ("Errors & Omission") Coverage.

The ENGINEER further agrees to obtain and maintain throughout the duration of this contract, insurance coverage written by companies authorized to do business in the State of Texas and rated A- or better in the following types and amounts:

TYPE	AMOUNT
1) Workers' Compensation	Statutory Limits
2) Automobile Liability	\$1,000,000 Combined Single Limit for Bodily Injury and Property Damage
3) Commercial General Liability	\$1,000,000 per Claim & \$2,000,000 Aggregate
3) Professional Liability The Professional Liability coverage must be maintained for at least two (2) years after the project is completed. If coverage is written on a claims made basis, a policy retroactive date equivalent to the inception date of the contract (or earlier) must be maintained during the full term of the contract.	\$2,000,000 each claim made \$2,000,000 Annual Aggregate

PLEASE NOTE: The required limits may be satisfied by any combination of primary, excess, or umbrella liability insurances, provided the primary policy complies with the above requirements and the excess umbrella is following-form. The Contractor may maintain reasonable and customary deductibles, subject to approval by the Webb County.

Any Subcontractor(s) hired by the Contractor shall maintain insurance coverage equal to that required of the Contractor. It is the responsibility of the Contractor to assure compliance with this provision. The Webb County accepts no responsibility arising from the conduct, or lack of conduct, of the Subcontractor.

A Comprehensive General Liability insurance form may be used in lieu of a Commercial General Liability insurance form. In this event, coverage must be written on an occurrence basis, at limits of \$1,000,000 each-occurrence, combined single limit, and coverage must include a broad form Comprehensive General

Liability Endorsement, products/completed operations, XCU hazards, and contractual liability.

With reference to the foregoing insurance requirement, Contractor shall specifically endorse applicable insurance policies as follows:

1. OWNER, Webb County, shall be named as an additional insured with respect to General Liability and Automobile Liability.
3. A waiver of subrogation in favor of the Webb County shall be contained in the Workers Compensation, and all liability policies.
4. All insurance policies shall be endorsed to require the insurer to immediately notify Webb County of any material change in the insurance coverage.
5. All insurance policies shall be endorsed to the effect that the Webb County will receive at least thirty- (30) days' notice prior to cancellation or non-renewal of the insurance.
6. All insurance policies, which name the Webb County as an additional insured, must be endorsed to read as primary coverage regardless of the application of other insurance.
7. Required limits may be satisfied by any combination of primary and umbrella liability insurances.
8. Contractor may maintain reasonable and customary deductibles, subject to approval by the Webb County.

All insurance must be written on forms filed with and approved by the Texas Department of Insurance. Certificates of Insurance shall be prepared and executed by the insurance company or its authorized agent and shall contain provisions representing and warranting the following:

1. Sets forth all endorsements and insurance coverages according to requirements and contained herein.
2. Shall specifically set forth the notice-of-cancellation or termination provisions to the Webb County.

Upon request, Contractor shall furnish the Webb County with certified copies of all insurance policies.

All contractors and subcontractors must be meeting minimum OSHA safety requirements as applicable to their operations.

#### **11. Data and Copyrights**

The OWNER, or any participating federal or state agency, has an unrestricted right to use any data or information generated in the performance of this Agreement and the OWNER, or any participating federal or state agency has a royalty-free, irrevocable license to use any plans, specifications, reports, data or information generated as a part of this agreement. Any reuse or adaptation will be at OWNER's, or any participating federal or state agency's, sole risk and without liability or legal exposure to ENGINEER.

#### **12. Gratuities**

(a) If the OWNER finds after a notice and hearing that the ENGINEER or any of the ENGINEER'S agents or representatives offered or gave gratuities (in the form of entertainment, gifts, or otherwise), to any official, employee, or agent of the OWNER, or any participating federal or state agency in an attempt to secure this Agreement or favorable treatment in awarding, amending or making any determinations related to the performance of this Agreement, the OWNER may, by written notice to the ENGINEER, terminate this

Agreement. The OWNER may also pursue other rights and remedies that the law or this Agreement provides. However, the existence of the facts on which the OWNER bases such findings shall be in issue and may be reviewed in proceedings under the Remedies clause of this Agreement.

(b) In the event this Agreement is terminated as provided in paragraph (a), the OWNER may pursue the same remedies against the ENGINEER as it could pursue in the event of a breach of the Agreement by the ENGINEER. As a penalty, in addition to any other damages to which it may be entitled by law, the OWNER may pursue exemplary damages in an amount (as determined by the OWNER) which shall be not less than three nor more than ten times the costs the ENGINEER incurs in providing any such gratuities to any such officer or employee.

### **13. Covenant Against Contingent Fees**

The ENGINEER assures that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the ENGINEER for the purpose of securing business. For breach or violation of this assurance the OWNER shall have the right to annul this Agreement without liability or, at its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fees.

### **14. Opinion of Probable Cost**

ENGINEER's Opinions of Probable Cost are to be made on the basis of ENGINEER's experience and qualifications and represent Engineer's best judgment as an experienced and qualified professional generally familiar with the construction industry. However, because ENGINEER has no control over the cost of labor, materials, equipment, or services furnished by others, or over contractors' methods of determining prices, or over competitive bidding or market conditions, Engineer cannot and does not guarantee that proposals, bids, or actual Construction Cost will not vary from opinions of probable Construction Cost prepared by ENGINEER. If OWNER requires greater assurance as to probable Construction Cost, OWNER must employ an independent cost estimator.

### **15. Remedies**

Unless otherwise provided in this Agreement, all claims, counter-claims, disputes, and other matters in question between the OWNER and the ENGINEER arising out of or relating to this Agreement or the breach of it will be decided by a state district court of competent jurisdiction within the county in which the OWNER is located.

### **16. Compliance Standards**

Under Section 231.006 of the Family Code, Engineer certifies that the individual or business entity named in this contract, bid or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate.

Engineer has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with this Agreement.

Engineer represents and warrants that, pursuant to Section 2270.002 of the Texas Government Code, Engineer does not boycott Israel and will not boycott Israel during the term of the contract.

Engineer certifies that it is not listed on the federal government's terrorism watch list as described in



Executive Order 13224.

Engineer represents and warrants that it is not engaged in business with Iran, Sudan, or a foreign terrorist organization, as prohibited by Section 2252.152 of the Texas Government Code.

#### **17. Debarment Prohibition**

(a) The ENGINEER agrees that at the time of execution of this Agreement that neither the CONTRACTOR nor any of its subcontractors are named on the master Lists of debarments, suspensions, and voluntary exclusions/40 CFR PT 32 (Master List) and that it will not make any sub-agreement awards to any entity that is named on the Master List.

#### **18. Address of Notices and Communications**

All notices and communications under this Agreement shall be mailed by standard mail, certified mail, return receipt requested, or delivered to the Engineer at the following address:

Top Site Civil Group, LLC  
6262 McPherson Road Suite 206  
Laredo, Texas 78043  
(956) 725-5057  
Responsible Principal – Jorge A. Martinez, P.E., R.P.L.S.

All notices and communications under this Agreement shall be mailed by standard mail, certified mail, return receipt requested, or delivered to the OWNER at the following address:

Webb County	
Webb County Judge	with a copy to: Webb County Project Management
1000 Houston Street, 3 <sup>rd</sup> Floor	1620 Santa Ursula, 2 <sup>nd</sup> Floor
Laredo, Texas 78040	Laredo, Texas 78040

#### **19. Limit of Appropriation**

Prior to the execution of this Agreement, the Engineer has been advised by OWNER, and the Engineer fully understands and agrees this understanding and agreement is of the absolute essence to this Agreement, that the total maximum compensation that the Engineer may become entitled to hereunder, and the total maximum sum that the OWNER shall become liable to pay to the Engineer, shall not, under any conditions, circumstances or interpretation, exceed the sum under this Agreement.

#### **20. Successors and Assigns**

The OWNER and the ENGINEER bind themselves and their successors, executors, administrators and assigns to the other party of this Agreement and to the successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement. Neither the OWNER nor the ENGINEER shall assign, sublet or transfer its or his interest in this Agreement without the written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of any public body that may be a party.

#### **21. Compliance and Standards**

The Engineer agrees to perform the work in accordance with the applicable generally accepted standards and shall use that degree of care and skill commensurate with the engineering profession to comply with all applicable state, federal and local laws, ordinances, rules, and regulations relating to the work to be

performed and Engineer's performance.

## **22. Ownership of Documents, Copyright**

All documents including the original drawings, estimates, specifications, field notes and data will remain the property of ENGINEER as instruments of service. However, it is to be understood that the OWNER shall have free access to all such information with the right to make and retain copies of drawings and all other documents including field notes and data. Any reuse without specific written verification or adaption by ENGINEER will be at OWNER's sole risk and without liability or legal exposure to ENGINEER. Copies of all complete or partially completed mylar reproducible, preliminary layouts, record drawings, sketches and other documents prepared pursuant to this Agreement shall be delivered to OWNER when and if this Agreement is terminated or upon completion of this Agreement, whichever occurs first. The Engineer may retain one set of reproducible copies of the documents and these copies shall be for the Engineer's sole use in preparation of studies or reports for OWNER only. The Engineer is expressly prohibited from selling, licensing or otherwise marketing or donating these documents, or using the documents in the preparation of other work for any other client, without the prior express written permission of the County.

## **23. Indemnification**

**ENGINEER SHALL INDEMNIFY AND HOLD HARMLESS OWNER, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED DAMAGES, COSTS, ATTORNEY FEES, AND EXPENSES TO THE EXTENT CAUSED BY, ARISING OUT OF, OR RESULTING FROM ANY ACTS OF NEGLIGENCE, INTENTIONAL TORTS, WILLFUL MISCONDUCT, PERSONAL INJURY OR DAMAGE TO PROPERTY, AND/OR OTHERWISE RELATED TO ENGINEER'S PERFORMANCE, AND/OR FAILURES TO PAY A SUBCONTRACTOR OR SUPPLIER BY THE ENGINEER OR ITS AGENTS, EMPLOYEES, SUBCONTRACTORS, ORDER FULFILLERS, CONSULTANTS UNDER CONTRACT TO ENGINEER, OR ANY OTHER ENTITY OVER WHICH THE ENGINEER EXERCISES CONTROL, OR SUPPLIERS OF SUBCONTRACTORS IN THE EXECUTION OR PERFORMANCE OF THE CONTRACT. THE DEFENSE SHALL BE COORDINATED BY ENGINEER WITH THE OWNER WHEN NAMED A DEFENDANT IN ANY LAWSUIT AND ENGINEER MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OWNER. ENGINEER AND OWNER AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.**

## **24. Modifications**

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

## **25. Authority of Owner's Representative**

The OWNER or his designee shall decide any and all questions that may arise as to the interpretation of this Agreement and all questions as to the acceptable fulfillment of this Agreement by the Engineer. His decision shall be final. It is mutually agreed by both parties that the OWNER or his designee shall act as referee in all questions arising under the terms of this Agreement between the parties and that the decisions of the Owner's Representative in these matters shall be final and binding alike on both parties. But nothing

contained in this section shall be construed to authorize the OWNER or his designee to alter, vary or amend any of the terms or provisions of this Agreement.

#### **26. Inconsistencies**

Where there exists any inconsistency between this Agreement and other provisions of collateral contractual agreements that are made a part hereof by reference or otherwise, the provisions of this Agreement shall control.

#### **27. Law of Texas**

This Agreement shall be governed by and construed in accordance with the laws of the State of Texas and shall be enforced in the state district courts of Webb County, Texas.

#### **28. Headings**

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

#### **29. Waiver**

The failure on the part of any party to exercise or to delay in exercising, and no course of dealing with respect to any right hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right hereunder preclude any other or further exercise thereof or the exercise of any other right. The remedies provided herein are cumulative and not exclusive of any remedies provided by law or in equity, except as expressly set forth herein.

#### **30. Counterparts**

This Agreement may be executed in any number of 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.

#### **31. 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.

#### **32. Rule of Construction**

The parties hereto acknowledge that each party and its legal counsel have reviewed and revised this agreement, and the parties hereby agree that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this agreement or any amendments or exhibits hereto.

#### **33. Independent Contractor**

The ENGINEER agrees that he is acting under this Agreement as an independent contractor. Neither the ENGINEER nor its employees, agents or representatives shall be considered employees of OWNER. Neither party shall be liable or accountable for any obligations incurred by the other party, except as specified herein, as the respective businesses of the parties are operated separately and apart from each other.

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## **SECTION B - ENGINEERING SERVICES**

The ENGINEER shall furnish ENGINEERING SERVICES as follows in accordance with the GENERAL PROVISIONS of the Agreement, Exhibit A "Summary of Engineering Fees" and as authorized by the appropriate Attachment to this Agreement:

### **ENGINEERING SERVICES DURING THE DESIGN PHASE**

1. The ENGINEER shall complete the ENGINEERING SERVICES described in Section B-2 through B-9 described herein, for the facilities listed in **Section E**, within **150** calendar days from the date of written authorization to proceed, unless otherwise mutually agreed to in writing by both parties, and will be initiated by the ENGINEER promptly after execution of Attachment I. Any supporting documentation or revisions regarding the ENGINEER'S services under this Agreement necessary to obtain the approval of any participating federal, state, or local regulatory agencies will be provided promptly.
2. The ENGINEER shall perform those services set out in Exhibit C Scope of Services (attached hereto and incorporated herein as if set out in full for all intents and purposes), prepare a final opinion of probable cost based on Engineers final design and work with the OWNER on the invitations for bids for the Project. The design drawings prepared shall be in sufficient detail to show the character and extent of the Project and to permit the actual location of the proposed improvements on the Project site. It is also understood that if subsurface explorations such as borings, or soil tests are required to determine amounts of rock excavation or foundation conditions, the ENGINEER will coordinate said explorations without additional charge, but the costs incident to such explorations, no matter whether they are performed by the ENGINEER or by others shall be paid for by the OWNER as indicated in Section C and set out in Attachment I.
3. The ENGINEER shall review any existing Facilities Plan prepared for this Project and, if necessary and upon consultation with and concurrence of the OWNER and any participating federal, state or local agency shall revise design criteria, design standards, and other appropriate preliminary design information included in the Facilities Plan or other preliminary engineering reports in order to complete the final design for the Project in accordance with the performance standards and accepted engineering practices.
4. The ENGINEER shall assist the OWNER in obtaining necessary permits and approvals from appropriate Federal, State, and local regulatory agencies. The cost of obtaining such permits and approvals shall be borne by the OWNER.
5. The Contract Documents furnished by the ENGINEER under Section B-6 shall incorporate any forms and terms provided by any participating federal or state agency.
6. Sixty (60) calendar days prior to the advertisement for bids, the ENGINEER shall provide for the construction contract to be awarded by the OWNER, one (1) copy and one (1) digital set of detailed design drawings, specifications, and construction contract documents (which said contract documents shall be approved in writing by the Webb County Civil Legal Division prior to being included in any specification manual or bid documents), in a form approved by OWNER for use by the OWNER and appropriate Federal, State and local agencies from whom approval of the Project must be obtained. Additional copies of the above-specified documents shall be provided to the OWNER by the ENGINEER at production cost. Originals of such items as documents, survey notes, and tracings, prepared by the ENGINEER are and shall remain the property of the ENGINEER, but this shall in no way infringe upon the OWNER'S rights to such items under Section A-8, A-11, A-22.
7. The ENGINEER shall establish baselines for locating the work together with a suitable number of

benchmarks adjacent to the work and show their location in the Contract Documents. This information and the Contract Documents will provide the contractor sufficient reference from which to execute the contract work.

8. The ENGINEER shall prepare and furnish to the OWNER one (1) digital or pdf copy of maps or drawings showing the approximate location of needed construction easements, permanent easements, rights-of-way and land to be acquired. Such maps or drawings shall be furnished promptly to enable the OWNER to initiate property and easement acquisitions.
9. Sections B-1 through B-9 and those ADDITIONAL ENGINEERING SERVICES designated for the Design Phase in Section C will take effect upon execution of Attachment I.

#### **ENGINEERING SERVICES DURING THE CONSTRUCTION PHASE**

10. Performance of the services requested during this phase (construction phase) will be initiated by the ENGINEER promptly after execution of Attachment II and the OWNER, (and if applicable) with the concurrence of any participating federal or state agency, issues a written authorization to proceed. This phase of the contract is for up to 270 Calendar Days.
11. The ENGINEER may be requested to attend the bid opening and ENGINEER shall review the bid proposals and analyze the responsiveness of the bidders.
12. Upon Award of the Construction Contract the ENGINEER shall furnish to the OWNER, one hard copy and one digital or pdf set of the design drawings, specifications and contract documents . Additional copies of such contract documents shall be provided to the OWNER by the ENGINEER at production cost.
13. The ENGINEER shall review and approve, for conformance with the design concept all shop drawings and other submittals required by the Contract Documents to be furnished by contractors.
14. The ENGINEER shall interpret the intent of the design drawings and specifications to protect the OWNER against defects and deficiencies in construction on the part of the contractors.
15. The ENGINEER shall provide regular general engineering review of the work of the contractors as construction progresses to ascertain that the contractors are conforming with the design concept.
16. The ENGINEER'S undertaking hereunder shall not relieve the contractor(s) of its/their obligation to perform the work in conformity with the Contract Documents and in a workmanlike manner; nor shall it make the ENGINEER an insurer of the contractor's performance; and shall not impose upon the ENGINEER any obligations to see that the work is performed in a safe manner.
17. The ENGINEER shall review each contractor's applications for progress and final payments and submit sufficient copies of same to the OWNER with the ENGINEER'S recommendation for approval or disapproval.
18. The ENGINEER shall prepare necessary contract change orders, the form of which shall be approved by OWNER, for approval of the OWNER and any participating federal or state agency as applicable.
19. The ENGINEER shall make an inspection prior to issuing the certificate of substantial completion of all construction and submit a written report to the OWNER and any participating federal or state agency if required, and any others as required.
20. Prior to submission of recommendation for final payment on each contract, the ENGINEER shall submit a certificate of substantial completion, the form of which shall be approved by OWNER, of

work done under that contract to the OWNER, with copies, for review, to any participating federal or state agency as required.

21. The ENGINEER shall provide the OWNER with one set of reproducible record (as-built) drawings, and two sets of prints. Such drawings will be based upon the construction records provided by the contractor during construction and reviewed by the ENGINEER.
22. Section B-10 through B-22 and those ADDITIONAL ENGINEERING SERVICES designated for the Construction Phase in Section C will take effect upon execution of Attachment II.

### **SECTION C – SUBCONTRACTORS, OUTSIDE ASSOCIATES OR OUTSIDE CONSULTANTS & TESTING SERVICES**

#### **Provided by ENGINEER:**

The following designated SUBCONTRACTORS, OUTSIDE ASSOCIATES OR OUTSIDE CONSULTANTS & TESTING SERVICES shall be provided by the ENGINEER upon written authorization by the OWNER will be initiated by the ENGINEER promptly after execution of Attachment II. Agreed upon SUBCONTRACTORS, OUTSIDE ASSOCIATES OR OUTSIDE CONSULTANTS & TESTING SERVICES will be designated by Design Phase (D) or Construction Phase (C) during which the service would be performed. Compensation for performing the designated SUBCONTRACTORS, OUTSIDE ASSOCIATES OR OUTSIDE CONSULTANTS & TESTING SERVICES will be included on Attachment II.

#### **Phase**

**NONE ANTICIPATED OR AUTHORIZED AT THE TIME OF SIGNING OF THIS AGREEMENT**

#### **Provided by OWNER:**

The following designated CONSULTANTS & TESTING SERVICES shall be provided by the OWNER and OWNER and ENGINEER shall coordinate the delivery of said services with the scheduling proposed by ENGINEER. CONSULTANTS & TESTING SERVICES will be designated by Design Phase (D) or Construction Phase (C) during which the service would be performed. Compensation for performing the designated CONSULTANTS & TESTING SERVICES shall be borne by OWNER.

#### **Phase**

- "N/A" Environmental Impact Statement – Design Phase.
- "D" Geotechnical report (subsurface borings) – Design Phase.
- "C" Materials and Density Testing – Construction Phase.

### **SECTION D – ADDITIONAL ENGINEERING SERVICES**

The following designated ADDITIONAL ENGINEERING SERVICES shall be provided by the ENGINEER upon written authorization by the OWNER and the concurrence of any participating federal or state agency. Agreed upon ADDITIONAL ENGINEERING SERVICES will be designated by Design Phase (D) or Construction Phase (C) during which the service would be performed. The scope and compensation for performing the designated ADDITIONAL ENGINEERING SERVICES will be negotiated between the OWNER and ENGINEER once ENGINEER reviews the scope of work pertaining to the ADDITIONAL SERVICES requested. Compensation will be based on either Exhibit B – Hourly Rate Fee Schedule or Fixed Fee Lump Sum.

#### **Phase**

None Anticipated.

**SECTION E – CONSTRUCTION STANDARDS - ITEMS**

The project consists of design and construction to correct and remediate the current deficiencies and to prevent future erosion for the following facilities:

- (1) County utility's effluent line at terminus of Centeno Lane Rio Bravo, Texas and
- (2) Drainage channel outfall structure north of Rio Bravo, Texas.

**WEBB COUNTY**

**TOP SITE CIVIL GROUP, LLC**


  
\_\_\_\_\_  
TANO E. TIJERINA  
COUNTY JUDGE

  
\_\_\_\_\_  
JORGE A. MARTINEZ, P.E., R.P.L.S.  
PRINCIPAL-MANAGING PARTNER

ATTESTED:

  
\_\_\_\_\_  
Margie Ramirez Ibarra  
Webb County Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Nathan R. Bratton  
Civil Legal Division\*

\*The General Counsel, Civil Legal Division's office, may only advise or approve contracts or legal documents on behalf Webb County, its client. 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).

**EXHIBIT A**  
**Summary of Engineering Fees**

The engineering fee to develop Preliminary Engineering Report (PER), plans, specifications, bid documents, opinion of probable cost, construction staking and administration as described in this agreement and as specifically set out by Task below is as follows:

**Design Phase**

<b>Task 1 - Project Surveying</b>		
1	Collect field data and Topographic Surveying	\$ 4,485
2	Site Visit, Measurements	\$ 1,720
3	Set Project Controls and Benchmarks	\$ 965
<b>SUBTOTAL</b>		<b>\$7,170</b>
<b>Task 2 - IBWC Coordination</b>		
1	Prepare checklist and application package for IBWC	\$ 4,110
2	Coordination with IBWC realty office	\$ 3,580
<b>SUBTOTAL</b>		<b>\$7,690</b>
<b>Task 3 - Schematic Engineering Design</b>		
1	Preliminary Demolition Plan	\$ 2,140
2	Preliminary Dimensional, Grading, Traffic Control Plan	\$ 5,640
3	Preliminary SWPP and Supporting Details	\$ 3,030
4	Project Utility Coordination	\$ 1,640
5	Preliminary Evaluations and Assessment	\$ 4,070
6	Coordination and meetings with County Officials	\$ 930
<b>SUBTOTAL</b>		<b>\$17,450</b>
<b>Task 4 - Construction Documents</b>		
1	Final Demolition Plan	\$ 2,930
2	Final Dimensional, Grading, Traffic Control Plan	\$ 8,830
3	Final SWPP and Supporting Details	\$ 4,270
4	Project Basis of Estimate and Preliminary Engineering Estimate	\$ 2,550
5	Project Specifications	\$ 4,110
<b>SUBTOTAL</b>		<b>\$22,690</b>
<b>TOTAL</b>		<b>\$55,000</b>

**Construction Phase**

<b>Task 5 - Project Bidding and Procurement</b>		
1	Host Prebid Meeting, and issue addendums as required	\$ 1,140
2	Prepare bid Tabulation	\$ 1,340
3	Evaluate bid of apparent low bidder	\$ 970
4	Prepare Engr recommendation for award	\$ 910
<b>SUBTOTAL</b>		<b>\$4,360</b>
<b>Task 6 - Construction Supervision, Coordination &amp; Meetings</b>		
1	Set Project Control for construction	\$ 1,360
2	Address Contractor RFIs	\$ 2,780
3	Review and comment on contractor submittals	\$ 2,660
4	Review Contractor Pay Applications	\$ 2,595
5	Prepare Record Drawings	\$ 4,810
<b>SUBTOTAL</b>		<b>\$14,205</b>
<b>TOTAL</b>		<b>\$18,565</b>

<b>Total Engineering Fee</b>	<b>\$73,565</b>
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**EXHIBIT B**  
**Hourly Rate Fee Schedule**

There are no hourly fees contemplated for this project.

**EXHIBIT C**  
**Scope of Services**

**Design Phase**

**Task 1 - Project Surveying**

- 1 Collect field data and Topographic Surveying
- 2 Site Visit, Measurements
- 3 Set Project Controls and Benchmarks

**Task 2 - IBWC Coordination**

- 1 Prepare checklist and application package for IBWC
- 2 Coordination with IBWC realty office

**Task 3 - Schematic Engineering Design**

- 1 Preliminary Demolition Plan
- 2 Preliminary Dimensional, Grading, Traffic Control Plan
- 3 Preliminary SWPP and Supporting Details
- 4 Project Utility Coordination
- 5 Preliminary Evaluations and Assessment
- 6 Coordination and meetings with County Officials

**Task 4 - Construction Documents**

- 1 Final Demolition Plan
- 2 Final Dimensional, Grading, Traffic Control Plan
- 3 Final SWPP and Supporting Details
- 4 Project Basis of Estimate and Preliminary Engineering Estimate
- 5 Project Specifications

**Construction Phase**

**Task 5 - Project Bidding and Procurement**

- 1 Host Prebid Meeting, and issue addendums as required
- 2 Prepare bid Tabulation
- 3 Evaluate bid of apparent low bidder
- 4 Prepare Engr recommendation for award

**Task 6 - Construction Supervision, Coordination & Meetings**

- 1 Set Project Control for construction
- 2 Progress meetings and regular observations of contractor's work at appropriate intervals during construction to determine if the work is proceeding in general accordance with the plans and specifications.
- 3 Address Contractor RFIs
- 4 Review and comment on contactor submittals
- 5 Review Contractor Pay Applications
- 6 Prepare Record Drawings

**Exhibit D – Site Location  
Rio Bravo – Erosion Remediation Project**



## ARPA Requirements

The following requirements are made a part of this agreement.

1. American Rescue Plan of 2021

1.1 For projects funded with American Rescue Plan Act of 2021 ("ARPA") funds, the parties to this Agreement shall abide by and fulfill all applicable ARPA requirements, including, but not limited to, ARPA-specific reporting requirements. For more information: <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments>.

2. Equal Opportunity

2.1 The Engineer shall comply with Executive Order 11246 of September 24, 1965 entitled "Equal Opportunity," as amended by Executive Order 11375 of October 13, 1967 and as supplemented by in Department of Labor Regulations (41 CFR Part 60).

3. Copeland "Anti-Kickback" Act

3.1 The Engineer shall comply with the provisions of the Copeland "Anti-kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor Regulations (29 CFR Part 3).

4. Prevailing Wage Rates

4.1 The Engineer shall incorporate the appropriate Texas Department of Labor, Bureau of Labor Standards Wage Determination in the Project Manual.

5. Contract Work Hours

5.1 The Engineer shall comply with sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor Regulations (29 CFR Part 5).

6. Environmental Protection

6.1 Clean Air Act. When assembling the bidding documents for implementation of the project, the Engineer shall require compliance with all applicable standards, orders, or requirements issued under Sections 114 and 306 of the Clean Air Act (42 U.S.C 18579(h)).

6.2 Clean Water Act. When assembling the bidding documents for implementation of the project, the Engineer shall require compliance with all applicable standards, orders, or requirements issued under section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, Environmental Protection Agency regulations (40 CFR Part 15), and section 308 of the Federal Water Pollution Control Act (33U.S.C. 1318), that relate generally to inspection, monitoring, entry reports, and information, and with all regulations and guidelines issued thereunder.

6.3 Related Environmental Laws. When assembling the bidding documents for implementation of the project, the Engineer shall require compliance with all applicable standards, orders, or requirements issued under the Resource Conservation and Recovery Act (RCRA); the Comprehensive Environmental Response, Compensation and Liabilities Act (CERCLA); the National Environmental Policy Act (NEPA); and any applicable Federal, Codes or Local environmental regulation.

7. Energy Policy and Conservation Act

7.1 When assembling the bidding documents for implementation of the project, the Engineer shall require compliance with 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 (Pub Law 94-163).

8. Buy American Act

8.1 When assembling the bidding documents for implementation of the project, the Engineer shall require compliance with the Buy American Act (41 U.S.C. 10). The Buy American Act gives preference

to domestic end products and domestic construction material. In addition, the Memorandum of Understanding between the United States of America and the European Economic Community (ECC) on Government Procurement, and the North American Free Trade Agreement (NAFTA), provide that ECC and NAFTA end products and construction materials are exempted from application of the Buy American Act.

#### 9. Nondiscrimination

9.1 The Engineer shall ensure that no person is denied benefits of, or otherwise be subjected to discrimination in connection with the Engineer's performance under this agreement, on the grounds of race, religion, color, national origin, sex, and handicap. Accordingly, and to the extent applicable, the Engineer covenants and agrees to comply with the following:

- .1 Title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq.), and DOD regulations 32 CFR Part 300) issued thereunder;
- .2 Executive Order 11246 and Department of Labor regulations issued thereunder (41 CFR Part 60);
- .3 Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), and DOD regulations issued thereunder (32 CFR Part 56); and,
- .4 The Age Discrimination Act of 1975 (42 U.S.C. § 6101 et seq.) and regulations issued thereunder (45 CFR Part 90).

#### 10. Lobbying

10.1 The Engineer will not expend any funds appropriated by Congress to pay any person for influencing or attempting to influence an officer or employee of any agency, or a Member of Congress in connection with any of the following covered federal actions; the awarding of any Federal contract; the making of any federal grant; the making of any federal loan; the entering into any cooperative agreement; and, the extension, continuation, renewal, amendment, or modification of any Federal contract, grant loan, or cooperative agreement.

10.2 The Interim Final Rule, New Restrictions on Lobbying, issued by the Office of Management and Budget to implement the provisions of section 319 of Public Law 101-121 (31 U.S.C., Art 1352) is incorporated by reference.

#### 11. Drug Free Workplace

11.1 The Engineer will comply with the provisions of the Drug-Free Workplace Act of 1988 (Public Law 100-690, title V, subtitle D; 41 U.S.C. 701 et seq.) and maintain a drug-free workplace.

11.2 The Final Rule, Government-wide Requirements for Drug-Free Workplace (Grants), issued by the Office of Management and Budget to implement the provisions of the Drug-Free Workplace Act of 1988 is incorporated by reference and the Engineer covenants and agrees to comply with all the provisions thereof.

#### 12. Debarment and Suspension

12.1 The Engineer shall not make any award or permit any award (subgrant or contract) at any tier to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, "Debarment and Suspension". For more information: <https://www.govinfo.gov/content/pkg/CFR-2018-title2-vol1/xml/CFR-2018-title2-vol1-part180.xml>

12.2 The Final Rule, Government wide Debarment and Suspension (Non-procurement), issued by the Office of Management and Budget to implement the provisions of Executive Order 12549, "Debarment and Suspension" is incorporated by reference and the Engineer covenants and agrees to comply with all the provisions thereof.

ATTACHMENT I

**ATTACHMENT I - Compensation for Engineering Services During the Design Phase and notice to proceed.**

1. As set forth in the AGREEMENT FOR ENGINEERING SERVICES dated the 28<sup>th</sup> day of August, 2023, by and between WEBB COUNTY, the OWNER, and Top Site Civil Group, L.L.C., the ENGINEER, the OWNER and ENGINEER agree this 28<sup>th</sup> day of August, 2023, that the OWNER shall compensate the ENGINEER for services described in Section B-1 through B-22 and Section C designated Design Phase services and ENGINEER is authorized to proceed.

2. Compensation for ENGINEERING SERVICES shall be by a FIRM FIXED PRICE METHOD. The FIRM FIXED PRICE is:


**\$55,000.00** (See Exhibit A – Summary of Engineering Fees: Subtotal – Design Phase

3. The amount of compensation shall not change unless the scope of services to be provided by the ENGINEER changes and this Agreement is formally amended according to Section A-6.

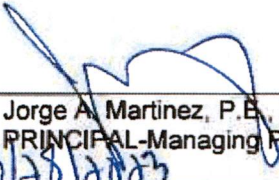
4. Signatures

IN WITNESS WHEREOF, the parties hereto have executed, or caused to be executed by their duly authorized officials, this Agreement in duplicate on the respective dates indicated below.

OWNER: WEBB COUNTY

Signature:   
Print Name: TANO ETJERINA  
Print Title: WEBB COUNTY JUDGE  
Date: 8/28/2023

ENGINEER: Top Site Civil Group, LLC

Signature:   
Name: Jorge A. Martinez, P.E., R. P.L.S.  
Title: PRINCIPAL-Managing Partner  
Date: 8/28/2023

## ATTACHMENT II

### ATTACHMENT II - Compensation for Engineering Services During the Construction Phase

1. As set forth in the AGREEMENT FOR ENGINEERING SERVICES dated the **28th** day of **August, 2023**, by and between WEBB COUNTY, the OWNER, and Top Site Civil Group, L.L.C., the ENGINEER, the OWNER and ENGINEER agree this \_\_\_\_\_ day of \_\_\_\_\_, 2023, that the OWNER shall compensate the ENGINEER for services described in Section B-10 through B-22 and Section C designated as Construction services.

2. Compensation for ENGINEERING SERVICES shall be by a FIRM FIXED PRICE METHOD. The FIRM FIXED PRICE is:

**\$18,565.00** (See Exhibit A – Summary of Engineering Fees: Subtotal – Construction Phase)

3. The amount of compensation shall not change unless the scope of services to be provided by the ENGINEER changes and this Agreement is formally amended according to Section A-6.

4. Signatures

IN WITNESS WHEREOF, the parties hereto have executed, or caused to be executed by their duly authorized officials, this Agreement in duplicate on the respective dates indicated below.

OWNER: WEBB COUNTY

Signature: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Print Title: \_\_\_\_\_  
Date: \_\_\_\_\_

ENGINEER: Top Site Civil Group, LLC

Signature \_\_\_\_\_  
Name Jorge A. Martinez, P.E., R. P.L.S.  
Title PRINCIPAL-Managing Partner  
Date \_\_\_\_\_

**ATTACHMENT III**

**ATTACHMENT III - Compensation for Subcontractors, Outside Associates or Outside Consultants & Testing Services and notice to proceed.**

1. As set forth in the AGREEMENT FOR ENGINEERING SERVICES dated the 28<sup>th</sup> day of August, 2023, by and between WEBB COUNTY, the OWNER, and Top Site Civil Group, LLC, the ENGINEER, the OWNER and ENGINEER agree this \_\_\_\_\_ day of \_\_\_\_\_, 2023, that the OWNER shall compensate the ENGINEER for services described in Section B-1 through B-9 and Section C designated Design Phase services and in Section B-10 through B-22 and Section C designated as Construction services and ENGINEER is authorized to proceed.

2. Compensation for ENGINEERING SERVICES shall be by a FIRM FIXED PRICE METHOD. The FIRM FIXED PRICE is:

**NO SUBCONTRACTORS, OUTSIDE ASSOCIATES OR OUTSIDE CONSULTANTS & TESTING SERVICES OUTSIDE CONSULTANTS & TESTING SERVICES ARE ANTICIPATED TO BE PROVIDED BY ENGINEER.**

**(See Exhibit A – Summary of Engineering Fees: Subtotal – Outside Consultants & Testing Services Phase)**

3. The amount of compensation shall not change unless the scope of services to be provided by the ENGINEER changes and this Agreement is formally amended according to Section A-5.

4. Signatures

IN WITNESS WHEREOF, the parties hereto have executed, or caused to be executed by their duly authorized officials, this Agreement in duplicate on the respective dates indicated below.

OWNER: WEBB COUNTY

Signature: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Print Title: \_\_\_\_\_  
Date: \_\_\_\_\_

ENGINEER: Top Site Civil Group, LLC

Signature \_\_\_\_\_  
Name Jorge A. Martinez, P.E., R. P.L.S.  
Title PRINCIPAL-Managing Partner  
Date \_\_\_\_\_