

# **CONTRACT FOR ENGINEERING SERVICES**

**FIRM:** Rodriguez Transportation Group, Inc. (“Engineer”)  
**ADDRESS:** 4210 Spicewood Springs Road, Suite 108, Austin, Texas 78759  
**PROJECT:** Joe Carrillo Street/Countryside Boulevard CSJ-0915-46-062 (“Project”)

**THE STATE OF TEXAS** §  
§  
**COUNTY OF GUADALUPE** §

**THIS CONTRACT FOR ENGINEERING SERVICES** (“Contract”) is made and entered into, effective as the date of the last party’s execution hereinbelow, by and between the City of Seguin, a Texas home rule municipality, whose offices are located at 205 North River Street, Seguin, Texas, 78155 (hereinafter referred to as “City”), and Engineer, and such Contract is for the purpose of contracting for professional engineering services.

## **RECITALS:**

WHEREAS, V.T.C.A., Government Code §2254.002(2)(A)(vii) under Subchapter A entitled “Professional Services Procurement Act” provides for the procurement professional engineering services by local governmental entities; and

WHEREAS, City and Engineer desire to contract for such professional engineering services; and

WHEREAS, City and Engineer wish to document their agreement concerning the requirements and respective obligations of the parties;

NOW, THEREFORE, WITNESSETH:

That for and in consideration of the mutual promises contained herein and other good and valuable considerations, and the covenants and agreements hereinafter contained to be kept and performed by the respective parties hereto, it is agreed as follows:

**ARTICLE 1**  
**CONTRACT DOCUMENTS AND APPLICABLE PROJECT DOCUMENTS**

**A. Contract Documents.** The Contract Documents consist of this Contract, any exhibits attached hereto (which exhibits are hereby incorporated into and made a part of this Contract), any fully executed Work Authorizations; any fully executed Supplemental Work Authorizations and all fully executed Contract Amendments (as defined herein in Article 14) which are subsequently issued. These form the entire contract, and all are as fully a part of this Contract as if attached to this Contract or repeated herein.

**B. Project Documents.** In addition to any other pertinent and necessary Project documents, the following documents shall be used in the development of the Project:

- A. TxDOT 2011 Texas Manual of Uniform Traffic Control Devices for Streets and Highways, including latest revisions
- B. Texas Department of Transportation's Standard Specifications for Construction of Highways, Streets, and Bridges, 2024 (English units)
- C. National Environmental Policy Act (NEPA)
- D. Texas Accessibility Standards (TAS) of the Architectural Barriers Act, Article 9102, Texas Civil Statutes, Effective April 4, 1994, including latest revisions
- E. Americans with Disabilities Act (ADA) Regulations
- F. U.S. Army Corps Regulations
- G. International Building Code, current edition as updated
- H. City of Seguin Design Criteria & Project Development Manual, latest edition
- I. City of Seguin Transportation Plan
- J. Project Level Environmental Review and Compliance Protocol, latest edition
- K. TxDOT Bridge Design Manual - LRFD, latest edition
- L. TxDOT Geotechnical Manual, latest edition

**ARTICLE 2**  
**NON-COLLUSION; DEBARMENT; AND FINANCIAL INTEREST PROHIBITED**

**A. Non-collusion.** Engineer warrants that he/she/it has not employed or retained any company or persons, other than a bona fide employee working solely for Engineer, to solicit or secure this Contract, and that he/she/it has not paid or agreed to pay any company or engineer any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon or resulting from the award or making of this Contract. For breach or violation of this warranty, City reserves and shall have the right to annul this Contract without liability or, in its discretion and at its sole election, to deduct from the contract price or compensation, or to otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

**B. Debarment Certification.** Engineer must sign the Debarment Certification enclosed herewith as **Exhibit A**.

**C. Financial Interest Prohibited.** Engineer covenants and represents that Engineer,

his/her/its officers, employees, agents, consultants and subcontractors will have no financial interest, direct or indirect, in the purchase or sale of any product, materials or equipment that will be recommended or required for the construction of the Project.

### **ARTICLE 3**

#### **ENGINEERING SERVICES**

Engineer shall perform Engineering Services as identified in **Exhibit B** entitled “Engineering Services.”

City will prepare and issue Work Authorizations, in substantially the same form identified and attached hereto as **Exhibit C** and entitled “Work Authorization No. \_\_\_\_\_”, to authorize the Engineer to perform one or more tasks of the Engineering Services. Each Work Authorization will include a description of the work to be performed, a description of the tasks and milestones, a work schedule for the tasks, definite review times by City and Engineer of all Engineering Services and a fee amount agreed upon by the City and Engineer. The amount payable for a Work Authorization shall be supported by the estimated cost of each work task as described in the Work Authorization. The Work Authorization will not waive the Engineer’s responsibilities and obligations established in this Contract. The executed Work Authorizations shall become part of this Contract.

All work must be completed on or before the date specified in the Work Authorization. The Engineer shall promptly notify the City of any event which will affect completion of the Work Authorization, although such notification shall not relieve the Engineer from costs or liabilities resulting from delays in completion of the Work Authorization. Should the review times or Engineering Services take longer than shown on the Work Authorization, through no fault of Engineer, Engineer may submit a timely written request for additional time, which shall be subject to the approval of the City. Any changes in a Work Authorization shall be enacted by a written Supplemental Work Authorization before additional costs may be incurred. Any Supplemental Work Authorization must be executed by both parties within the period specified in the Work Authorization.

### **ARTICLE 4**

#### **CONTRACT TERM**

**A. Term.** The Engineer is expected to complete the Engineering Services described herein in accordance with the above described Work Authorizations or any Supplemental Work Authorization related thereto. If Engineer does not perform the Engineering Services in accordance with each applicable Work Authorization or any Supplemental Work Authorization related thereto, then City shall have the right to terminate this Contract as set forth below in Article 20. So long as the City elects not to terminate this Contract, it shall continue from day to day until such time as the Engineering Services are completed in accordance with each applicable Work Authorization or any Supplemental Work Authorization related thereto. Any Engineering Services performed or costs incurred after the date of termination shall not be eligible for reimbursement. Engineer shall notify City in writing as soon as possible if he/she/it determines, or reasonably anticipates, that the

Engineering Services will not be completed in accordance with an applicable Work Authorization or any Supplemental Work Authorization related thereto.

**B. Work Authorizations.** Engineer acknowledges that each Work Authorization is of critical importance, and agrees to undertake all reasonably necessary efforts to expedite the performance of Engineering Services required herein so that construction of the Project will be commenced and completed as scheduled. In this regard, and subject to adjustments in a particular Work Authorization, as provided in Article 3 herein, Engineer shall proceed with sufficient qualified personnel and consultants necessary to fully and timely accomplish all Engineering Services required under this Contract in a professional manner.

**C. Commencement of Engineering Services.** After execution of this Contract, Engineer shall not proceed with Engineering Services until Engineer has been thoroughly briefed on the scope of the Project and has been notified in writing by the City to proceed, as provided in Article 8.

## **ARTICLE 5**

### **COMPENSATION AND EXPENSES**

City shall pay and Engineer agrees to accept up to the amount shown below as full compensation for the Engineering Services performed and to be performed under this Contract. The basis of compensation for the services of principals and employees engaged in the performance of the Engineering Services shall be based on the Rate Schedule set forth in the attached **Exhibit D**.

The maximum amount payable under this Contract, without modification, is **three hundred sixty five thousand eight hundred fifty-five dollars and ninety-three cents (\$365,855.93)** (the "Compensation Cap"), provided that any amounts paid or payable shall be solely pursuant to a validly issued Work Authorization or any Supplemental Work Authorization related thereto. In no event may the aggregate amount of compensation authorized under Work Authorizations and Supplemental Work Authorizations exceed the Compensation Cap. The Compensation Cap shall be revised equitably only by written Contract Amendments executed by both parties in the event of a change the overall scope of the Engineering Services set forth in **Exhibit B**, as authorized by City.

The Compensation Cap is based upon all labor and non-labor costs estimated to be required in the performance of the Engineering Services provided for under this Contract. Should the actual costs of all labor and non-labor costs rendered under this Contract be less than the above stated Compensation Cap, then Engineer shall receive compensation for only actual fees and costs of the Engineering Services actually rendered and incurred, which may be less than the above stated Compensation Cap.

The Compensation Cap herein referenced may be adjusted for Additional Engineering Services requested and performed only if approved by a written Contract Amendment signed by both parties.

Engineer shall prepare and submit to City monthly progress reports in sufficient detail to support the progress of the Engineering Services and to support invoices requesting monthly payment. The format for such monthly progress reports and invoices must be in a format acceptable to City. Satisfactory progress of Engineering Services shall be an absolute condition of payment.

Engineer shall be reimbursed for actual non-labor and subcontract expenses incurred in the performance of the services under this Contract at the Engineer's invoice cost. Invoices requesting reimbursement for costs and expenditures related to the Project (reimbursables) must be accompanied by copies of the provider's invoice. The copies of the provider's invoice must evidence the actual costs billed to Engineer without mark-up.

## **ARTICLE 6**

### **METHOD OF PAYMENT**

Payments to Engineer shall be made while Engineering Services are in progress. Engineer shall prepare and submit to Billy Hornung at [bhornung@segiuntexas.gov](mailto:bhornung@segiuntexas.gov), not more frequently than once per month, a progress report as referenced in Article 5 above. Such progress report shall state the percentage of completion of Engineering Services accomplished for an applicable Work Authorization or any Supplemental Work Authorization related thereto during that billing period and to date. This submittal shall also include a progress assessment report in a form acceptable to the City Engineer.

Simultaneous with submission of such progress report, Engineer shall prepare and submit one invoice to Pam Herrera at [pherrera@segiuntexas.gov](mailto:pherrera@segiuntexas.gov) in a form acceptable to the Director of Finance for the City. All invoices submitted to the City must, at a minimum, be accompanied by an original complete packet of supporting documentation and time sheets detailing hours worked by staff persons with a description of the work performed by such persons. For Additional Engineering Services performed pursuant to this Contract, a separate invoice or itemization of the Additional Engineering Services must be presented with the same aforementioned requirements.

Payments shall be made by City based upon Engineering Services actually provided and performed. Upon timely receipt and approval of each statement, City shall make a good faith effort to pay the amount which is due and payable within thirty (30) days of receipt. City reserves the right to reasonably withhold payment pending verification of satisfactory Engineering Services performed. Engineer has the responsibility to submit proof to City, adequate and sufficient in its determination, that tasks of an applicable Work Authorization or any Supplemental Work Authorization related thereto were completed.

The certified statements shall show the total amount earned to the date of submission and shall show the amount due and payable as of the date of the current statement. Final payment does not relieve Engineer of the responsibility of correcting any errors and/or omissions resulting from his/her/its negligence.

Upon submittal of the initial invoice, Engineer shall provide the Director of Finance for the City with an Internal Revenue Form W-9, Request for Taxpayer Identification Number and

Certification that is complete in compliance with the Internal Revenue Code, its rules and regulations.

## **ARTICLE 7**

### **PROMPT PAYMENT POLICY**

In accordance with Chapter 2251, V.T.C.A., Texas Government Code, payment to Engineer will be made within thirty (30) days of the day on which the performance of services was complete, or within thirty (30) days of the day on which the City receives a correct invoice for services, whichever is later.

Engineer may charge a late fee (fee shall not be greater than that which is permitted by Texas law) for payments not made in accordance with this prompt payment policy; however, this policy does not apply in the event:

- A. There is a bona fide dispute between City and Engineer concerning the supplies, materials, or equipment delivered or the services performed that causes the payment to be late; or
- B. The terms of a federal contract, grant, regulation, or statute prevent City from making a timely payment with federal funds; or
- C. There is a bona fide dispute between Engineer and a subcontractor/subconsultant or between a subcontractor/subconsultant and its supplier concerning supplies, materials, or equipment delivered or the Engineering Services performed which causes the payment to be late; or
- D. The invoice is not mailed to the City in strict accordance with instructions, if any, on the purchase order, or this Contract or other such contractual agreement.

The City shall document to Engineer the issues related to disputed invoices within ten (10) calendar days of receipt of such invoice. Any non-disputed invoices shall be considered correct and payable per the terms of Chapter 2251, V.T.C.A., Texas Government Code.

## **ARTICLE 8**

### **COMMENCEMENT OF ENGINEERING SERVICES**

The Engineer shall not proceed with any task of the Engineering Services until Engineer has been thoroughly briefed on the scope of the Project and instructed, in writing by the City, to proceed with the applicable Engineering Services. The City shall not be responsible for work performed or costs incurred by Engineer related to any task for which a Work Authorization or a Supplemental Work Authorization related thereto has not been issued and signed by both parties. Engineer shall not be required to perform any work for which a Work Authorization or a Supplemental Work Authorization related thereto has not been issued and signed by both parties.

## **ARTICLE 9**

### **PROJECT TEAM**

City's Designated Representative for purposes of this Contract is as follows:

Billy Hornung, PE  
108 E Mountain Street  
Seguin, Texas 78155

City shall have the right, from time to time, to change the City's Designated Representative by giving Engineer written notice thereof. With respect to any action, decision or determination which is to be taken or made by City under this Contract, the City's Designated Representative may take such action or make such decision or determination or shall notify Engineer in writing of an individual responsible for and capable of taking such action, decision or determination and shall forward any communications and documentation to such individual for response or action. Actions, decisions or determinations by the City's Designated Representative on behalf of City shall be done in his or her reasonable business judgment unless express standards or parameters therefor are included in this Contract, in which case, actions taken by the City's Designated Representative shall be in accordance with such express standards or parameters. Any consent, approval, decision or determination hereunder by the City's Designated Representative shall be binding on City; *provided, however*, the City's Designated Representative shall not have any right to modify, amend or terminate this Contract, an Executed Work Authorization, an executed Supplemental Work Authorization or executed Contract Amendment. City's Designated Representative shall not have any authority to execute a Contract Amendment, Work Authorization or any Supplemental Work Authorization unless otherwise granted such authority by the City Manager or the Seguin City Council, as the policies of the City deem appropriate.

Engineer shall have the right, from time to time, to change the Engineer's Designated Representative by giving City written notice thereof. With respect to any action, decision or determination which is to be taken or made by Engineer under this Contract, the Engineer's Designated Representative may take such action or make such decision or determination or shall notify City in writing of an individual responsible for and capable of taking such action, decision or determination and shall forward any communications and documentation to such individual for response or action. Actions, decisions or determinations by the Engineer's Designated Representative on behalf of Engineer shall be done in his or her reasonable business judgment unless express standards or parameters therefor are included in this Contract, in which case, actions taken by the Engineer's Designated Representative shall be in accordance with such express standards or parameters. Any consent, approval, decision or determination hereunder by the Engineer's Designated Representative shall be binding on Engineer. Engineer's Designated Representative shall have the right to modify, amend and execute Work Authorizations, Supplemental Work Authorizations and Contract Amendments on behalf of Engineer.

## **ARTICLE 10**

### **PROGRESS EVALUATION**

Engineer shall, from time to time during the progress of the Engineering Services, confer with the City at the City's discretion. Engineer shall prepare and present such information as may be pertinent and necessary, or as may be reasonably requested by City, in order for City to evaluate features of the Engineering Services. At the request of City or Engineer, conferences shall be

provided at Engineer's office, the offices of City, or at other locations designated by City. When requested by City, such conferences shall also include evaluation of the Engineering Services. City may, from time to time, require Engineer to appear and provide information to the Seguin City Council.

Should City determine that the progress in Engineering Services does not satisfy an applicable Work Authorization or any Supplemental Work Authorization related thereto, then City shall review same with Engineer to determine corrective action required.

Engineer shall promptly advise City in writing of events which have or may have a significant impact upon the progress of the Engineering Services, including but not limited to the following:

- A. Problems, delays, adverse conditions which may materially affect the ability to meet the objectives of an applicable Work Authorization or any Supplemental Work Authorization related thereto, or preclude the attainment of Project Engineering Services units by established time periods; and such disclosure shall be accompanied by statement of actions taken or contemplated, and City assistance needed to resolve the situation, if any; and
- B. Favorable developments or events which enable meeting goals sooner than anticipated in relation to an applicable Work Authorization's or any Supplemental Work Authorization related thereto.

## **ARTICLE 11**

### **SUSPENSION**

Should City desire to suspend the Engineering Services, but not to terminate this Contract, then such suspension may be effected by City giving Engineer thirty (30) calendar days' written notification. Such thirty-day notice may be waived in writing by agreement and signature of both parties. The Engineering Services may be reinstated and resumed in full force and effect within sixty (60) days of receipt of written notice from City to resume the Engineering Services. Such sixty-day (60) notice may be waived in writing by agreement and signature of both parties. If this Contract is suspended for more than thirty (30) days, Engineer shall have the option of terminating this Contract and, in the event, Engineer shall be compensated for all Engineering Services performed and reimbursable expenses incurred, provided such Engineering Services and reimbursable expenses have been previously authorized and approved by City, to the effective date of suspension.

If City suspends the Engineering Services, the contract period as determined in Article 4, and the Work Authorization or any Supplemental Work Authorization related thereto, shall be extended for a time period equal to the suspension period.

City assumes no liability for Engineering Services performed or costs incurred prior to the date authorized by City for Engineer to begin Engineering Services, and/or during periods when Engineering Services is suspended, and/or subsequent to the completion date.



**ARTICLE 12**  
**ADDITIONAL ENGINEERING SERVICES**

If Engineer forms a reasonable opinion that any work he/she/it has been directed to perform is beyond the overall scope of this Contract, as set forth in **Exhibit B**, and as such constitutes extra work (“Additional Engineering Services”), he/she/it shall promptly notify City in writing. In the event City finds that such work does constitute Additional Engineering Services, City shall so advise Engineer and a written Contract Amendment will be executed between the parties as provided in Article 14. Any increase to the Compensation Cap due to Additional Engineering Services must be set forth in such Contract Amendment. Engineer shall not perform any proposed Additional Engineering Services nor incur any additional costs prior to the execution, by both parties, of a written Contract Amendment. Following the execution of a Contract Amendment that provides for Additional Engineering Services, a written Work Authorization, which sets forth the Additional Engineering Services to be performed, must be executed by the parties. City shall not be responsible for actions by Engineer nor for any costs incurred by Engineer relating to Additional Engineering Services not directly associated with the performance of the Engineering Services authorized in this Contract, by a fully executed Work Authorization or a fully executed Contract Amendment thereto.

**ARTICLE 13**  
**CHANGES IN COMPLETED ENGINEERING SERVICES**

If City deems it necessary to request changes to previously satisfactorily completed Engineering Services or parts thereof which involve changes to the original Engineering Services or character of Engineering Services under this Contract, then Engineer shall make such revisions as requested and as directed by City. Such revisions shall be considered as Additional Engineering Services and paid for as specified under Article 12.

Engineer shall make revisions to Engineering Services authorized hereunder as are necessary to correct errors appearing therein, when required to do so by City. No additional compensation shall be due for such Engineering Services.

**ARTICLE 14**  
**CONTRACT AMENDMENTS**

The terms set out in this Contract may be modified by a written fully executed Contract Amendment. Changes and modifications to a fully executed Work Authorization shall be made in the form of a Supplemental Work Authorization. To the extent that such changes or modifications to a Work Authorization do not also require modifications to the terms of this Contract (i.e. changes to the overall scope of Engineering Services set forth in **Exhibit B**, modification of the Compensation Cap, etc.) a Contract Amendment will not be required.

**ARTICLE 15**  
**USE OF DOCUMENTS**

All documents, including but not limited to drawings, specifications and data or programs

stored electronically, (hereinafter referred to as "Engineering Work Products") prepared by Engineer and its subcontractors/subconsultants are related exclusively to the services described in this Contract and are intended to be used with respect to this Project. However, it is expressly understood and agreed by and between the parties hereto that all of Engineer's designs under this Contract (including but not limited to tracings, drawings, estimates, specifications, investigations, studies and other documents, completed or partially completed), shall be the property of the City to be thereafter used in any lawful manner as the City elects. Any such subsequent use made of documents by the City shall be at the City's sole risk and without liability to Engineer.

By execution of this Contract and in confirmation of the fee for services to be paid under this Contract, Engineer hereby conveys, transfers and assigns to the City all rights under the Federal Copyright Act of 1976 (or any successor copyright statute), as amended, all common law copyrights and all other intellectual property rights acknowledged by law in the Project Designs and work product developed under this Contract. Copies may be retained by Engineer. Engineer shall be liable to the City for any loss or damage to any such documents while they are in the possession of or while being worked upon by Engineer or anyone connected with Engineer, including agents, employees, Engineers or subcontractors/subconsultants. All documents so lost or damaged shall be replaced or restored by Engineer without cost to the City.

Upon execution of this Contract, Engineer grants to the City permission to reproduce Engineer's work and documents for purposes of constructing, using and maintaining the Project, provided that the City shall comply with its obligations, including prompt payment of all sums when due, under this Contract. Engineer shall obtain similar permission from Engineer's subcontractors/subconsultants consistent with this Contract. If and upon the date Engineer is adjudged in default of this Contract, the City is permitted to authorize other similarly credentialed design professionals to reproduce and, where permitted by law, to make changes, corrections or additions to the work and documents for the purposes of completing, using and maintaining the Project.

The City shall not assign, delegate, sublicense, pledge or otherwise transfer any permission granted herein to another party without the prior written consent of Engineer. However, the City shall be permitted to authorize the contractor, subcontractors and material or equipment suppliers to reproduce applicable portions of the Engineering Work Products appropriate to and for use in the execution of the Work. Submission or distribution of Engineering Work Products to meet official regulatory requirements or for similar purposes in connection with the Project is permitted. Any unauthorized use of the Engineering Work Products shall be at the City's sole risk and without liability to Engineer and its Engineers.

Prior to Engineer providing to the City any Engineering Work Products in electronic form or the City providing to Engineer any electronic data for incorporation into the Engineering Work Products, the City and Engineer shall by separate written contract set forth any special limitations not otherwise provided in this Contract governing such Engineering Work Products or electronic data. Any electronic files are provided by Engineer for the convenience of the City, and use of them is at the City's sole risk. In the case of any defects in electronic files or any discrepancies between them and any hardcopy of the same documents prepared by Engineer, the hardcopy shall prevail.

Engineer shall have no liability for changes made to the drawings by other engineers subsequent to the completion of the Project. Any such change shall be sealed by the engineer making that change and shall be appropriately marked to reflect what was changed or modified.

## **ARTICLE 16**

### **PERSONNEL, EQUIPMENT AND MATERIAL**

Engineer shall furnish and maintain, at its own expense, quarters for the performance of all Engineering Services, and adequate and sufficient personnel and equipment to perform the Engineering Services as required. All employees of Engineer shall have such knowledge and experience as will enable them to perform the duties assigned to them. Any employee of Engineer who, in the reasonable opinion of the City's Designated Representative is incompetent or whose conduct becomes detrimental to the Engineering Services shall immediately be removed from association with the Project when so instructed by the City. Engineer certifies that it presently has adequate qualified personnel in its employment for performance of the Engineering Services required under this Contract, or will obtain such personnel from sources other than the City. Engineer may not change the Project Manager without prior written consent of the City.

## **ARTICLE 17**

### **SUBCONTRACTING**

Engineer shall not assign, subcontract or transfer any portion of the Engineering Services under this Contract without prior written approval from the City. All subcontracts shall include the provisions required in this Contract. No subcontract shall relieve Engineer of any responsibilities under this Contract.

## **ARTICLE 18**

### **REVIEW OF ENGINEERING SERVICES**

Engineer's Engineering Services will be reviewed by the City under its applicable technical requirements and procedures.

**A. Completion.** Reports, plans, specifications, and supporting documents shall be submitted by Engineer on or before the dates specified in the applicable Work Authorization or Supplemental Work Authorization related thereto. Upon receipt of same, the submission shall be checked for completion. "Completion" or "Complete" shall be defined as all of the required items, as set out in the applicable Work Authorization, have been included in compliance with the requirements of this Contract. The completeness of any Engineering Services submitted to the City shall be determined by the City within thirty (30) days of such submittal and the City shall notify Engineer in writing within such thirty (30) day period if such Engineering Services have been found to be incomplete. If the submission is Complete, the City shall notify Engineer and the City's technical review process will begin.

If the submission is not Complete, the City shall notify Engineer, who shall perform such professional services as are required to complete the Engineering Services and resubmit it to the City. This process shall be repeated until a submission is Complete.

**B. Acceptance.** The City shall review the completed Engineering Services for compliance with this Contract. If necessary, the completed Engineering Services shall be returned to Engineer, who shall perform any required Engineering Services and resubmit it to the City. This process shall be repeated until the Engineering Services are Accepted. "Acceptance" or "Accepted" shall mean that in the City's reasonable opinion, substantial compliance with the requirements of this Contract has been achieved.

**C. Final Approval.** After Acceptance, Engineer shall perform any required modifications, changes, alterations, corrections, redesigns, and additional work necessary to receive Final Approval by the City. "Final Approval" in this sense shall mean formal recognition that the Engineering Services have been fully carried out.

**D. Errors and Omissions.** After Final Approval, Engineer shall, without additional compensation, perform any work required as a result of Engineer's development of the work which is found to be in error or omission due to Engineer's negligence. However, any work required or occasioned for the convenience of the City after Final Approval shall be paid for as Additional Engineering Services.

**E. Disputes Over Classifications.** In the event of any dispute over the classification of Engineer's Engineering Services as Complete, Accepted, or having attained Final Approved under this Contract, the decision of the City shall be final and binding on Engineer, subject to any civil remedy or determination otherwise available to the parties and deemed appropriate by the parties.

**F. City's Reliance on Engineer.** ENGINEER'S DUTIES AS SET FORTH HEREIN SHALL AT NO TIME BE IN ANY WAY DIMINISHED BY REASON OF ANY REVIEW, EVALUATION OR APPROVAL BY THE CITY NOR SHALL THE ENGINEER BE RELEASED FROM ANY LIABILITY BY REASON OF SUCH REVIEW, EVALUATION OR APPROVAL BY THE CITY, IT BEING UNDERSTOOD THAT THE CITY AT ALL TIMES IS ULTIMATELY RELYING UPON THE ENGINEER'S SKILL, ABILITY AND KNOWLEDGE IN PERFORMING THE ENGINEERING SERVICES REQUIRED HEREUNDER.

## **ARTICLE 19**

### **VIOLATION OF CONTRACT TERMS/BREACH OF CONTRACT**

Violation of contract terms or breach of contract by Engineer shall be grounds for termination of this Contract, and any increased costs arising from Engineer's default, breach of contract, or violation of contract terms shall be paid by Engineer.

## **ARTICLE 20**

### **TERMINATION**

This Contract may be terminated as set forth below.

- A. By mutual agreement and consent, in writing, of both parties.
- B. By the City, by notice in writing to Engineer, as a consequence of failure by Engineer to perform the Engineering Services set forth herein in a satisfactory manner.
- C. By either party, upon the failure of the other party to fulfill its obligations as set forth herein.
- D. By the City, for reasons of its own and not subject to the mutual consent of Engineer, upon not less than thirty (30) days' written notice to Engineer.
- E. By satisfactory completion of all Engineering Services and obligations described herein.

Should the City terminate this Contract as herein provided, no fees other than fees due and payable at the time of termination plus reimbursable expenses incurred shall thereafter be paid to Engineer. In determining the value of the Engineering Services performed by Engineer prior to termination, the City shall be the sole judge. Compensation for Engineering Services at termination will be based on a percentage of the Engineering Services completed at that time. Should the City terminate this Contract under Subsection (D) immediately above, then the amount charged during the thirty-day notice period shall not exceed the amount charged during the preceding thirty (30) days, without prior written consent of the City.

If Engineer defaults in the performance of this Contract or if the City terminates this Contract for fault on the part of Engineer, then the City shall give consideration to the actual costs incurred by Engineer in performing the Engineering Services to the date of default, the amount of Engineering Services required which was satisfactorily completed to date of default, the value of the Engineering Services which are usable to the City, the cost to the City of employing another firm to complete the Engineering Services required and the time required to do so, and other factors which affect the value to the City of the Engineering Services performed at the time of default.

The termination of this Contract and payment of an amount in settlement as prescribed above shall extinguish all rights, duties, and obligations of the City under this Contract. If the termination of this Contract is due to the failure of Engineer to fulfill his/her/its contractual obligations, then the City may take over the Project and prosecute the Engineering Services to completion. In such case, Engineer shall be liable to the City for any additional and reasonable costs incurred by the City.

Engineer shall be responsible for the settlement of all contractual and administrative issues arising out of any procurements made by Engineer in support of the Engineering Services under this Contract.

## ARTICLE 21

### **COMPLIANCE WITH LAWS**

- A. **Compliance.** Engineer shall comply with all applicable federal, state and local

laws, statutes, codes, ordinances, rules and regulations, and the orders and decrees of any court, or administrative bodies or tribunals in any manner affecting the performance of this Contract, including without limitation, minimum/maximum salary and wage statutes and regulations, and licensing laws and regulations. Engineer shall furnish the City with satisfactory proof of his/her/its compliance.

Engineer shall further obtain all permits and licenses required in the performance of the Engineering Services contracted for herein.

**B. Taxes.** Engineer will pay all taxes, if any, required by law arising by virtue of the Engineering Services performed hereunder. The City is qualified for exemption pursuant to the provisions of Texas Tax Code Section 151.309.

## **ARTICLE 22**

### **INDEMNIFICATION**

ENGINEER AGREES, TO THE FULLEST EXTENT PERMITTED BY LAW, TO INDEMNIFY AND HOLD THE CITY HARMLESS FROM AND AGAINST ANY AND ALL LIABILITIES, LOSSES, PENALTIES, JUDGMENTS, CLAIMS, LAWSUITS, DAMAGES, COSTS AND EXPENSES, INCLUDING, BUT NOT LIMITED TO, ATTORNEYS' FEES, ("LOSSES") TO THE EXTENT SUCH LOSSES ARE CAUSED BY OR RESULTS FROM A NEGLIGENT ACT OR OMISSION, NEGLIGENCE, OR INTENTIONAL TORT COMMITTED BY ENGINEER, ENGINEER'S EMPLOYEES, AGENTS, OR ANY OTHER PERSON OR ENTITY UNDER CONTRACT WITH ENGINEER INCLUDING, WITHOUT LIMITATION, ENGINEER'S SUBCONSULTANTS, OR ANY OTHER ENTITY OVER WHICH ENGINEER EXERCISES CONTROL.

ENGINEER FURTHER AGREES, TO THE FULLEST EXTENT PERMITTED BY LAW, TO INDEMNIFY AND HOLD THE CITY HARMLESS FROM ANY AND ALL LIABILITIES, LOSSES, PENALTIES, JUDGMENTS, CLAIMS, LAWSUITS, DAMAGES, COSTS AND EXPENSES, INCLUDING, BUT NOT LIMITED TO, ATTORNEYS' FEES, ("LOSSES") TO THE EXTENT SUCH LOSSES ARE CAUSED BY OR RESULTS FROM ENGINEER'S FAILURE TO PAY ENGINEER'S EMPLOYEES, SUBCONTRACTORS, SUBCONSULTANTS, OR SUPPLIERS, IN CONNECTION WITH ANY OF THE WORK PERFORMED OR TO BE PERFORMED UNDER THIS CONTRACT BY ENGINEER.

ENGINEER FURTHER AGREES TO INDEMNIFY AND HOLD THE CITY HARMLESS FROM ANY AND ALL LIABILITIES, LOSSES, PENALTIES, CLAIMS, LAWSUITS, DAMAGES, COSTS AND EXPENSES, INCLUDING, BUT NOT LIMITED TO, ATTORNEYS' FEES, ("LOSSES") TO THE EXTENT SUCH LOSSES ARE CAUSED BY OR RESULTS FROM THE INFRINGEMENT OF ANY INTELLECTUAL PROPERTY ARISING OUT OF THE USE OF ANY PLANS, DESIGN, DRAWINGS, OR SPECIFICATIONS FURNISHED BY ENGINEER IN THE PERFORMANCE OF THIS CONTRACT.

THE LIMITS OF INSURANCE REQUIRED IN THIS CONTRACT AND/OR THE CONTRACT DOCUMENTS SHALL NOT LIMIT ENGINEER'S OBLIGATIONS UNDER THIS SECTION. THE TERMS AND CONDITIONS CONTAINED IN THIS SECTION SHALL SURVIVE THE TERMINATION OF THE CONTRACT AND/OR CONTRACT DOCUMENTS OR THE SUSPENSION OF THE WORK HEREUNDER. TO THE EXTENT THAT ANY LIABILITIES, PENALTIES, DEMANDS, CLAIMS, LAWSUITS, LOSSES, DAMAGES, COSTS AND EXPENSES ARE CAUSED IN PART BY THE ACTS OF THE CITY OR THIRD PARTIES FOR WHOM ENGINEER

IS NOT LEGALLY LIABLE, ENGINEER'S OBLIGATIONS SHALL BE IN PROPORTION TO ENGINEER'S FAULT. THE OBLIGATIONS HEREIN SHALL ALSO EXTEND TO ANY ACTIONS BY THE CITY TO ENFORCE THIS INDEMNITY OBLIGATION.

IN THE EVENT THAT CONTRACTORS INITIATE LITIGATION AGAINST THE CITY IN WHICH THE CONTRACTOR ALLEGES DAMAGES AS A RESULT OF ANY NEGLIGENT ACTS, ERRORS OR OMISSIONS OF ENGINEER, ITS EMPLOYEES, AGENTS, SUBCONTRACTORS, SUBCONSULTANTS, OR SUPPLIERS, OR OTHER ENTITIES OVER WHICH ENGINEER EXERCISES CONTROL, INCLUDING, BUT NOT LIMITED TO, DEFECTS, ERRORS, OR OMISSIONS, THEN THE CITY SHALL HAVE THE RIGHT TO JOIN ENGINEER IN ANY SUCH PROCEEDINGS AT THE CITY'S COST. ENGINEER SHALL ALSO HOLD THE CITY HARMLESS AND INDEMNIFY THE CITY TO THE EXTENT THAT ENGINEER, ANY OF ITS EMPLOYEES, AGENTS, SUBCONTRACTORS, SUBCONSULTANTS, OR SUPPLIERS, OR OTHER ENTITIES OVER WHICH ENGINEER EXERCISES CONTROL, CAUSED SUCH DAMAGES TO CONTRACTOR, INCLUDING ANY AND ALL COSTS AND ATTORNEYS' FEES INCURRED BY THE CITY IN CONNECTION WITH THE DEFENSE OF ANY CLAIMS WHERE ENGINEER, ITS EMPLOYEES, AGENTS, SUBCONTRACTORS, SUBCONSULTANTS, OR SUPPLIERS, OR OTHER ENTITIES OVER WHICH ENGINEER EXERCISES CONTROL, ARE ADJUDICATED AT FAULT.

### **ARTICLE 23**

### **ENGINEER'S RESPONSIBILITIES**

Engineer shall be responsible for the accuracy of his/her/its Engineering Services and shall promptly make necessary revisions or corrections to its work product resulting from errors, omissions, or negligent acts, and same shall be done without compensation. The City shall determine Engineer's responsibilities for all questions arising from design errors and/or omissions, subject to the dispute resolution provisions of Article 33. Engineer shall not be relieved of responsibility for subsequent correction of any such errors or omissions in its work product, or for clarification of any ambiguities until after the construction phase of the Project has been completed.

### **ARTICLE 24**

### **ENGINEER'S SEAL**

The responsible engineer shall sign, seal and date all appropriate engineering submissions to the City in accordance with the Texas Engineering Practice Act and the rules of the State Board of Registration for Professional Engineers.

### **ARTICLE 25**

### **INSURANCE**

Engineer must comply with the following insurance requirements at all times during this Contract:

**A. Coverage Limits.** Engineer, at Engineer's sole cost, shall purchase and maintain during the entire term while this Contract is in effect the following insurance:

1. Worker's Compensation in accordance with statutory requirements.

2. Commercial General Liability Insurance with a combined minimum Bodily Injury and Property Damage limits of \$1,000,000.00 per occurrence and \$2,000,000.00 in the aggregate.
3. Automobile Liability Insurance for all owned, non-owned, and hired vehicles with combined minimum limits for Bodily Injury and Property Damage limits of \$500,000.00 per occurrence and \$1,000,000.00 in the aggregate.
4. Professional Liability Errors and Omissions Insurance in the amount of \$2,000,000.00 per claim.

**B. Additional Insureds; Waiver of Subrogation.** The City, its directors, officers and employees shall be added as additional insureds under policies listed under (2) and (3) above, and on those policies where the City, its directors, officers and employees are additional insureds, such insurance shall be primary and any insurance maintained by the City shall be excess and not contribute with it. Such policies shall also include waivers of subrogation in favor of the City.

**C. Premiums and Deductible.** Engineer shall be responsible for payment of premiums for all of the insurance coverages required under this section. Engineer further agrees that for each claim, suit or action made against insurance provided hereunder, with respect to all matters for which the Engineer is responsible hereunder, Engineer shall be solely responsible for all deductibles and self-insured retentions. Any deductibles or self-insured retentions over \$50,000 in the Engineer's insurance must be declared and approved in writing by the City in advance.

**D. Commencement of Work.** Engineer shall not commence any field work under this Contract until he/she/it has obtained all required insurance and such insurance has been approved by the City. As further set out below, Engineer shall not allow any subcontractor/subconsultant(s) to commence work to be performed in connection with this Contract until all required insurance has been obtained and approved and such approval shall not be unreasonably withheld. Approval of the insurance by the City shall not relieve or decrease the liability of Engineer hereunder.

**E. Insurance Company Rating.** The required insurance must be written by a company approved to do business in the State or Texas with a financial standing of at least an A-rating, as reflected in Best's insurance ratings or by a similar rating system recognized within the insurance industry at the time the policy is issued.

**F. Certification of Coverage.** Engineer shall furnish the City with a certification of coverage issued by the insurer. Engineer shall not cause any insurance to be canceled nor permit any insurance to lapse. **In addition to any other notification requires set forth hereunder, Engineer shall also notify the City, within twenty-four (24) hours of receipt, of any notices of expiration, cancellation, non-renewal, or material change in coverage it receives from its insurer.**

**G. No Arbitration.** It is the intention of the City and agreed to and hereby acknowledged by the Engineer, that no provision of this Contract shall be construed to require the City to submit to mandatory arbitration in the settlement of any claim, cause of action or dispute,



except as specifically required in direct connection with an insurance claim or threat of claim under an insurance policy required hereunder or as may be required by law or a court of law with jurisdiction over the provisions of this Contract.

**H. Subcontractor/Subconsultant's Insurance.** Without limiting any of the other obligations or liabilities of Engineer, Engineer shall require each subcontractor/subconsultant performing work under this Contract (to the extent a subcontractor/subconsultant is allowed by the City) to maintain during the term of this Contract, at the subcontractor/subconsultant's own expense, the same stipulated minimum insurance required in this Article above, including the required provisions and additional policy conditions as shown below in this Article.

Engineer shall obtain and monitor the certificates of insurance from each subcontractor/subconsultant in order to assure compliance with the insurance requirements. Engineer must retain the certificates of insurance for the duration of this Contract, and shall have the responsibility of enforcing these insurance requirements among its subcontractor/subconsultants. The City shall be entitled, upon request and without expense, to receive copies of these certificates of insurance.

**I. Insurance Policy Endorsements.** Each insurance policy shall include the following conditions by endorsement to the policy:

1. The City shall be notified thirty (30) days prior to the expiration, cancellation, non-renewal or any material change in coverage, and such notice thereof shall be given to the City by certified mail to:

Pina Iuffredo  
205 N. River Street  
Seguin, Texas 78155

With copy to: Mark D. Kennedy  
Via email at [MKennedy@seguintexas.gov](mailto:MKennedy@seguintexas.gov)

2. The policy clause "Other Insurance" shall not apply to any insurance coverage currently held by the City, to any such future coverage, or to the City's Self-Insured Retentions of whatever nature.

**J. Cost of Insurance.** The cost of all insurance required herein to be secured and maintained by Engineer shall be borne solely by Engineer, with certificates of insurance evidencing such minimum coverage in force to be filed with the City. Such Certificates of Insurance are evidenced as **Exhibit F** herein entitled "Certificates of Insurance."

## **ARTICLE 26** **COPYRIGHTS**

The City shall have the royalty-free, nonexclusive and irrevocable right to reproduce, publish or otherwise use, and to authorize others to use, any reports developed by Engineer for governmental purposes.

#### **ARTICLE 27**

#### **SUCCESSORS AND ASSIGNS**

This Contract shall be binding upon and inure to the benefit of the parties hereto, their successors, lawful assigns, and legal representatives. Engineer may not assign, sublet or transfer any interest in this Contract, in whole or in part, by operation of law or otherwise, without obtaining the prior written consent of the City.

#### **ARTICLE 28**

#### **SEVERABILITY**

In the event any one or more of the provisions contained in this Contract shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such invalidity, illegality or unenforceability shall not affect any other provision thereof and this Contract shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

#### **ARTICLE 29**

#### **PRIOR AGREEMENTS SUPERSEDED**

This Contract constitutes the sole agreement of the parties hereto for the scope of work defined herein and supersedes any prior understandings or written or oral contracts between the parties respecting the subject matter defined herein. This Contract may only be amended or supplemented by mutual agreement of the parties hereto in writing.

#### **ARTICLE 30**

#### **ENGINEER'S ACCOUNTING RECORDS**

Engineer agrees to maintain, for a period of three (3) years after final payment under this Contract, detailed records identifying each individual performing the Engineering Services, the date or dates the services were performed, the applicable hourly rates, the total amount billed for each individual and the total amount billed for all persons, records of reimbursable costs and expenses of other providers and provide such other details as may be requested by the Director of Finance for the City for verification purposes. Engineer agrees that the City or its duly authorized representatives shall, until the expiration of three (3) years after final payment under this Contract, have access to and the right to examine and photocopy any and all books, documents, papers and records of Engineer which are directly pertinent to the services to be performed under this Contract for the purposes of making audits, examinations, excerpts, and transcriptions. Engineer further agrees that the City shall have access during normal working hours to all necessary Engineer facilities and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the provisions of this section. The City shall give Engineer reasonable advance notice of intended audits.

## **ARTICLE 31**

### **NOTICES**

All notices to either party by the other required under this Contract shall be personally delivered or mailed to such party at the following respective addresses:

**City:** Steve Parker, City Manager  
205 N. River Street  
Seguin, Texas 78155

With copy to: Mark Kennedy, City Attorney  
205 N. River Street  
Seguin, Texas 78155

**Engineer:** Brock Miller  
Rodriguez Transportation Group (RTG)  
4210 Spicewood Springs Road, Suite 108  
Austin, Texas 78759

## **ARTICLE 32**

### **GENERAL PROVISIONS**

**A. Time is of the Essence.** Subject to Article 3 hereof, Engineer understands and agrees that time is of the essence and that any failure of Engineer to complete the Engineering Services for each phase of this Contract within the agreed work schedule set out in the applicable Work Authorization may constitute a material breach of this Contract. Engineer shall be fully responsible for his/her/its delays or for failures to use his/her/its reasonable efforts in accordance with the terms of this Contract and the Engineer's standard of performance as defined herein. Where damage is caused to the City due to Engineer's negligent failure to perform the City may accordingly withhold, to the extent of such damage, Engineer's payments hereunder without waiver of any of the City's additional legal rights or remedies.

**B. Force Majeure.** Neither the City nor Engineer shall be deemed in violation of this Contract if prevented from performing any of their obligations hereunder by reasons for which they are not responsible or circumstances beyond their control. However, notice of such impediment or delay in performance must be timely given, and all reasonable efforts undertaken to mitigate its effects.

**C. Enforcement and Venue.** This Contract shall be enforceable in Seguin, Guadalupe County, Texas, and if legal action is necessary by either party with respect to the enforcement of any or all of the terms or conditions herein, exclusive venue for same shall lie in Guadalupe County, Texas. This Contract shall be governed by and construed in accordance with the laws and court decisions of the State of Texas excluding, however, its choice of law rules.

**D. Standard of Performance.** The standard of care for all professional engineering,

consulting and related services performed or furnished by Engineer and its employees under this Contract will be the care and skill ordinarily used by members of Engineer's profession practicing under the same or similar circumstances at the same time and in the same locality.

**E. Opinion of Probable Cost.** Any opinions of probable Project cost or probable construction cost provided by Engineer are made on the basis of information available to Engineer and on the basis of Engineer's experience and qualifications and represents its judgment as an experienced and qualified professional engineer. However, since Engineer has no control over the cost of labor, materials, equipment or services furnished by others, or over the contractor(s') methods of determining prices, or over competitive bidding or market conditions, Engineer does not guarantee that proposals, bids or actual Project or construction cost will not vary from opinions of probable cost Engineer prepares.

**F. Opinions and Determinations.** Where the terms of this Contract provide for action to be based upon opinion, judgment, approval, review, or determination of either party hereto, such terms are not intended to be and shall never be construed as permitting such opinion, judgment, approval, review, or determination to be arbitrary, capricious, or unreasonable.

**G. Reports of Accidents.** Within 24 hours after Engineer becomes aware of 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 Engineer), whether or not it results from or involves any action or failure to act by the Engineer or any employee or agent of the Engineer and which arises in any manner from the performance of this Contract, the Engineer shall send a written report of such accident or other event to the City, setting forth a full and concise statement of the facts pertaining thereto. The Engineer shall also immediately send the City a copy of any summons, subpoena, notice, or other documents served upon the Engineer, 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 Engineer's performance of work under this Contract.

**H. Gender, Number and Headings.** Words of any gender used in this Contract shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires. The headings and section numbers are for convenience only and shall not be considered in interpreting or construing this Contract.

**I. Construction.** Each party hereto acknowledges that it and its counsel have reviewed this Contract and that the normal rules of construction are not applicable and there will be no presumption that any ambiguities will be resolved against the drafting party in the interpretation of this Contract.

**J. Independent Contractor Relationship.** Both parties hereto, in the performance of this Contract, shall act in an individual capacity and not as agents, employees, partners, joint ventures or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purposes whatsoever.

**K. No Waiver of Immunities.** Nothing in this Contract shall be deemed to waive,

modify or amend any legal defense available at law or in equity to the City, its past or present officers, employees, or agents or employees, nor to create any legal rights or claim on behalf of any third party. The City does not waive, modify, or alter to any extent whatsoever the availability of the defense of governmental immunity under the laws of the State of Texas and of the United States.

**L. Texas Public Information Act.** To the extent, if any, that any provision in this Contract is in conflict with Tex. Gov't Code 552.001 et seq., as amended (the "Public Information Act"), the same shall be of no force or effect. Furthermore, it is expressly understood and agreed that the City, its officers and employees may request advice, decisions and opinions of the Attorney General of the State of Texas in regard to the application of the Public Information Act to any items or data furnished to the City as to whether or not the same are available to the public. It is further understood that the City's officers and employees shall have the right to rely on the advice, decisions and opinions of the Attorney General, and that the City, its officers and employees shall have no liability or obligation to any party hereto for the disclosure to the public, or to any person or persons, of any items or data furnished to the City by a party hereto, in reliance of any advice, decision or opinion of the Attorney General of the State of Texas.

**M. Governing Terms and Conditions.** If there is an irreconcilable conflict between the terms and conditions set forth in this Contract or any Contract Amendment and the terms and conditions set forth in any Exhibit, Appendix, Work Authorization or Supplemental Work Authorization to this Contract, the terms and conditions set forth in this Contract or any Contract Amendment shall control over the terms and conditions set forth in any Exhibit, Appendix, Work Authorization or Supplemental Work Authorization to this Contract.

**N. Meaning of Day.** For purposes of this Contract, all references to a "day" or "days" shall mean a calendar day or calendar days.

**O. Appropriation of Funds by the City.** The City believes it has sufficient funds currently available and authorized for expenditure to finance the costs of this Contract. Engineer understands and agrees that the City's payment of amounts under this Contract is contingent on the City receiving appropriations or other expenditure authority sufficient to allow the City, in the exercise of reasonable administrative discretion, to continue to make payments under this Contract. It is further understood and agreed by Engineer that the City shall have the right to terminate this Contract at the end of any City fiscal year if the Seguin City Council does not appropriate sufficient funds as determined by the City's budget for the fiscal year in question. The City may effect such termination by giving written notice of termination to Engineer.

### **ARTICLE 33** **DISPUTE RESOLUTION**

Except as otherwise specifically set forth herein, the City and Engineer shall work together in good faith to resolve any controversy, dispute or claim between them which arises out of or relates to this Contract, whether stated in tort, contract, statute, claim for benefits, bad faith, professional liability or otherwise ("Claim"). If the parties are unable to resolve the Claim within thirty (30) days following the date in which one party sent written notice of the Claim to the other party, and if a party wishes to pursue the Claim, such Claim shall be addressed through non-binding

mediation. A single mediator engaged in the practice of law, who is knowledgeable about subject matter of this Contract, shall be selected by agreement of the parties and serve as the mediator. Any mediation under this Contract shall be conducted in Guadalupe County, Texas, or in a location agreeable to the parties. The mediator's fees shall be borne equally between the parties. Such non-binding mediation is a condition precedent to seeking redress in a court of competent jurisdiction, but this provision shall not preclude either party from filing a lawsuit in a court of competent jurisdiction prior to completing a mediation if necessary to preserve the statute of limitations, in which case such lawsuit shall be stayed pending completion of the mediation process contemplated herein. This provision shall survive the termination of the Contract.

### **ARTICLE 34**

#### **EQUAL OPPORTUNITY IN EMPLOYMENT**

During the performance of this Contract and to the extent the Project is a federally funded project, Engineer, for itself, its assignees and successors in interest agrees as follows:

**A. Compliance with Regulations.** The Engineer shall comply with the Regulations relative to nondiscrimination in Federally-assisted programs, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Contract.

**B. Nondiscrimination.** The Engineer, with regard to the work performed by it during the Contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors/subconsultants, including procurements of materials and leases of equipment. The Engineer shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

**C. Solicitations for Subcontracts, Including Procurements of Materials and Equipment.** In all solicitations either by competitive bidding or negotiation made by the Engineer for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor/subconsultant or supplier shall be notified by the Engineer of the Engineer's obligations under this Contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

**D. Information and Reports.** The Engineer shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the City. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the Engineer shall so certify to the City and shall set forth what efforts it has made to obtain the information.

**E. Sanctions for Noncompliance.** In the event of the Engineer's noncompliance with the nondiscrimination provisions of this contract, the City shall impose such contract sanctions as it may determine to be appropriate, including, but not limited to:

1. withholding of payments to the Engineer under the contract until the Engineer complies, and/or;
2. cancellation, termination or suspension of the Contract, in whole or in part.

**F. Incorporation of Provisions.** The Engineer shall include the provisions of Subsections (A) through (F) above in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The Engineer shall take such action with respect to any subcontract or procurement as the City may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor/subconsultant or supplier as a result of such direction, the Engineer may request the City to enter into such litigation to protect the interests of the City.

### **SIGNATORY WARRANTY**

The undersigned signatory for Engineer hereby represents and warrants that the signatory is an officer of the organization for which he/she has executed this Contract and that he/she has full and complete authority to enter into this Contract on behalf of the firm. The above-stated representations and warranties are made for the purpose of inducing the City to enter into this Contract.

**IN WITNESS WHEREOF**, the City has caused this Contract to be signed in its name by its duly authorized City Manager, as has Engineer, signing by and through its duly authorized representative(s), thereby binding the parties hereto, their successors, assigns and representatives for the faithful and full performance of the terms and provisions hereof, to be effective as of the date of the last party's execution below. NO OFFICIAL, EMPLOYEE, AGENT, OR REPRESENTATIVE OF THE CITY HAS ANY AUTHORITY, EITHER EXPRESS OR IMPLIED, TO AMEND, TERMINATE OR MODIFY THIS CONTRACT, EXCEPT PURSUANT TO SUCH EXPRESS AUTHORITY AS MAY BE GRANTED BY THE SEGUIN CITY COUNCIL.

**(SIGNATURES FOLLOW ON THE NEXT PAGE)**

**CITY**

CITY OF SEGUIN, TEXAS

By: \_\_\_\_\_  
Stever Parker, City Manager

Date: \_\_\_\_\_, 20\_\_\_\_

**ATTEST:** \_\_\_\_\_  
**Kristin Mueller**  
**City Secretary**

**ENGINEER**

\_\_\_\_\_  
Rodriguez Transportation Group, Inc.

By \_\_\_\_\_  
*Brock E. Miller*

Printed Name: \_\_\_\_\_  
Brock E. Miller, P.E.

Title: \_\_\_\_\_  
Vice President

Date: \_\_\_\_\_  
March 7, 2025



## **LIST OF EXHIBITS ATTACHED**

- |                      |   |
|----------------------|---|
| <b>(1) Exhibit A</b> | Debarment Certification                 |
| <b>(2) Exhibit B</b> | Engineering Services                    |
| <b>(3) Exhibit C</b> | Work Authorization                      |
| <b>(4) Exhibit D</b> | Rate Schedule                           |
| <b>(5) Exhibit E</b> | Certificates of Insurance               |
| <b>(6) Exhibit F</b> | Required Contract Provisions            |
| <b>(7) Exhibit G</b> | Advanced Funding Agreement Requirements |

## **LIST OF EXHIBITS ATTACHED**

- (1) **Exhibit A**            Debarment Certification
- (2) **Exhibit B**            Engineering Services
  - (A) **Attachment A**        Services to be Provided by the City
  - (B) **Attachment B**        Services to be Provided by the Engineer
  - (C) **Attachment C**        Work Schedule
  - (D) **Attachment D**        Fee Schedule
- (3) **Exhibit C**            Work Authorization
- (4) **Exhibit D**            Rate Schedule
- (5) **Exhibit E**            Certificates of Insurance
- (6) **Exhibit F**            Required Contract Provisions
- (7) **Exhibit G**            Advanced Funding Agreement Requirements

## EXHIBIT A

### DEBARMENT CERTIFICATION

STATE OF TEXAS

§  
§  
§

COUNTY OF GUADALUPE

I, the undersigned, being duly sworn or under penalty of perjury under the laws of the United States and the State of Texas, certifies that Engineer and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any federal department or agency:

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public\* transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity\* with commission of any of the offenses enumerated in paragraph (1)(b) of this certification;

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions\* terminated for cause or default; and

(e) Have not been disciplined or issued a formal reprimand by any State agency for professional accreditation within the past three years.

Rodriguez Transportation Group Inc

Name of Firm

S. F. Davidson

Signature of Certifying Official

Steve F. Davidson

Printed Name of Certifying Official

CFO

Title of Certifying Official

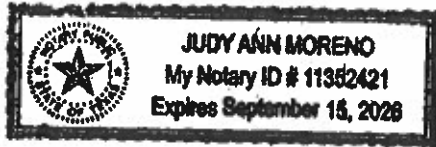
February 25, 2025

Date

(2) Where the PROVIDER is unable to certify to any of the statements in this certification, such PROVIDER shall attach an explanation to this certification.

\* federal, state, or local

SUBSCRIBED and sworn to before me the undersigned authority by Steven F. Davidson  
the Chief Financial Officer of Rodriguez Transp., on behalf of  
said firm. Group



Judy Ann Moreno

Notary Public in and for the  
State of Texas

My commission expires: 9/15/26

## **EXHIBIT B**

### **ENGINEERING SERVICES**

**ATTACHMENT A**  
**SERVICES TO BE PROVIDED BY CITY**

**Prime Provider:** Rodriguez Transportation Group, Inc.

**County:** Guadalupe

**Local Government (LG):** City of Seguin

**TxDOT District:** San Antonio (15)

**CSJ:** 0915-46-062

**AFA ID:** Z00008945

**Project Name:** Joe Carrillo St/Countryside Blvd

**Project Limits:** Joe Carrillo St from SH 123 to east of Lantana Gate (2,600 LF)

Countryside Blvd from FM 466 to Joe Carrillo St (1,500 LF)

**Project Length:** 4,100 LF (0.78 Miles)

Subject to availability, the services to be provided or performed by the City of Bee Cave ("City") will include, but not be limited to, the following items:

1. Secure Right of Entry from public and private landowners to perform surveying and environmental investigations, as needed, for the Engineer to complete project tasks.
2. Provide copies of TIAs that include data relevant to the study area and have been approved by the City.
3. Provide available traffic and/or pedestrian counts collected by the City within the project area.
4. Provide available recent aerial imagery.
5. Assist the Engineer in obtaining data from other Agencies as required.
6. Unit cost data and/or bid tabulations from recent City Projects for the engineer's use to develop opinions of probable cost (OPC).
7. Provide the most recent adopted/approved City Roadway Design Criteria
8. Provide the following Public Involvement (PI) activities for one (1) public meeting, if required:
  - a. Provide meeting space for public meeting, including security as needed/required by the City.
  - b. Provide sign in table and staff to assist with sign-in of meeting attendees, as needed.
  - c. Meeting Notification mailouts – prepare and mail to adjacent property owners (if needed/required).
  - d. Meeting Notification Ads – prepare and place ads in major/local newspapers (if needed/required).
  - e. Provide bi-lingual services as needed for notifications (e.g., if a Spanish version is needed).
  - f. Provide audio/visual equipment (e.g., if a PowerPoint "presentation" is desired at the beginning of the meeting, or to run during the meeting).
  - g. City Web page meeting notifications.
9. Provide the name, address and phone number of the City's project manager.
10. Provide timely review of recommendations offered by the Engineer.
11. Provide timely review of progress of work and final acceptance of all documents submitted by the Engineer.
12. Process of all periodic payment requests submitted by Engineer in a timely manner.

13. Make available interface data for any projects adjacent to the project corridor.
14. Assist the Engineer in obtaining the required data and information from other local, regional, state, and federal agencies.
15. Timely reviews of deliverables in accordance with Attachment C, "Work Schedule" of the Work Authorization and decisions necessary for the Engineer to maintain the project work schedule.
16. Examples of acceptable format for the deliverables required in this contract.

**ATTACHMENT B**  
**SERVICES TO BE PROVIDED BY THE ENGINEER**

**Prime Provider:** Rodriguez Transportation Group, Inc.

**County:** Guadalupe

**Local Government (LG):** City of Seguin

**TxDOT District:** San Antonio (15)

**CSJ:** 0915-46-062

**AFA ID:** Z00008945

**Project Name:** Joe Carrillo St/Countryside Blvd

**Project Limits:** Joe Carrillo St from SH 123 to east of Lantana Gate (2,600 LF)  
Countryside Blvd from FM 466 to Joe Carrillo St (1,500 LF)

**Project Length:** 4,100 LF (0.78 Miles)

The Engineer shall provide engineering services required for the preparation of plans, specifications, and estimates (PS&E) and related documents, for the proposed shared use path (SUP) improvements on Joe Carrillo St and Countryside Blvd, and road diet improvements on Countryside Blvd. These services include design surveys, roadway design, environmental documentation, public involvement, hydrologic and hydraulic design, utility coordination, and subsurface utility engineering.

The Engineer shall maintain a direct line of communication and coordinate closely with City of Seguin (the City) staff or their designated representative, local municipal agencies, and utility companies throughout the project. The Engineer shall complete the services to be provided by the Engineer according to the milestone work schedule established in the work authorization. The Engineer shall submit a monthly written progress report to the City indicating the percent complete on all project tasks.

The Engineer shall furnish Microsoft Office and computer-generated media containing the project design files to the City.

**GENERAL REQUIREMENTS**

**A. Quality Assurance and Quality Control.** The Engineer shall provide peer review at all levels. For each deliverable, the Engineer shall include an electronic copy of their internal QC review document(s).

**TASK DESCRIPTIONS AND FUNCTION CODES**

The Engineer shall categorize each task performed to correspond with the Function Codes (FC) and Task Descriptions.

**FC 110 - Route and Design Studies**

**A. Data Collection and Field Reconnaissance.** The Engineer shall collect, review and evaluate data described below. The Engineer shall notify the City in writing whenever the Engineer finds disagreement with the information or documents:

1. Data, if available, from the City, including "as-built plans", right-of-way maps, Subsurface Utility Engineering (SUE) mapping, existing cross sections, existing planimetric mapping, environmental documents, existing channel and drainage easement data, existing traffic counts, traffic impact assessments (TIA's), accident data, identified endangered species, identified hazardous material sites, current unit bid price information, current special provisions, special specifications, and standard drawings.



2. Documents for existing and proposed development along proposed route from local municipalities and local ordinances related to project development.
3. Readily available flood plain information and studies from the Federal Emergency Management Agency (FEMA), the U. S. Army Corps of Engineers (USACE), local municipalities and other governmental agencies in addition to that provided by the City.
4. The Engineer shall conduct field reconnaissance and collect data including a photographic record (to be maintained in Engineer's office) of notable existing features.

**B. Design Criteria.** The Engineer shall develop the roadway and drainage design criteria based on the controlling factors specified by the City and by using the design speed, functional classification, roadway class and any other set criteria. In addition, the Engineer shall prepare TxDOT form 2440, Design Summary Report (DSR) or equivalent City of Seguin form and submit it electronically. The Engineer shall obtain written concurrence from the City prior to proceeding with the design.

**C. Preliminary Cost Estimates.** The Engineer shall develop a preliminary cost estimate using the TxDOT's Average Low Bid Unit Price and any other readily available data. The preliminary cost estimate shall be accurate enough to compare to the allocated funding amount to ensure the completed design will be within budget.

**D. Design Coordination Meeting.** The Engineer, in cooperation with the City shall plan, attend and document a Design Concept Conference (DCC) meeting to be held prior to the Initial milestone submittal. In preparation for the DCC, the Engineer shall complete the DSR to serve as a checklist for the minimum required design considerations.

The meeting will provide for a brainstorming session in which decision makers, stakeholders and technical personnel may discuss and agree on:

1. Roadway and drainage design parameters
2. Engineering and environmental constraints
3. Project development schedule
4. Other issues as identified by the City

**E. Stakeholder Meetings.** The Engineer shall prepare for and attend up to four (4) stakeholder meetings with neighborhood HOA's, Seguin ISD representatives, or others as needed, in coordination with the City of Seguin.

## **FC 120 - Environmental Documentation**

### **A. Environmental Scoping and Documentation**

1. The ENGINEER shall provide the Categorical Exclusion (CE) documentation for the proposed shared use path (SUP) improvements on Joe Carrillo St and Countryside Blvd, and road diet improvements on Countryside Blvd.
2. The ENGINEER shall follow TxDOT's environmental documentation and review process for CEs, as outlined in TxDOT Environmental Guide Vol 1 and Vol 2. The general process and requirements are outlined in TxDOT's environmental rules (43 TAC 2) and described in online environmental compliance toolkits, guidance, forms, checklists, and documentation standards.
3. All CE official documentation in line with the above-mentioned rules and documentation, including technical reports, environmental studies, and background information will be submitted to TxDOT for review and approval as required. The ENGINEER shall address TxDOT's comments, if needed, and resubmit the documentation to TxDOT for as final.

**B. Data Collection Process:**

1. Data Collection & Field Reconnaissance: Collect readily available environmental information relative to the project area from the appropriate local, state, and federal agencies. A regulatory records review will be performed to identify constraints within the Area of Potential Effect (APE). The review will also identify environmental risks along the project corridor. A site reconnaissance will be conducted as needed to visually inspect the project site for additional risks and field verify any environmental risks as identified by the review.

**C. Section 404 Clean Water Act Compliance**

1. A water feature analysis will be conducted via desktop analysis in the project area and summarized in the appropriate documentation if required by TxDOT's environmental guidance documents. Specific impacts of the project on potentially jurisdictional waters of the U.S. will be determined, and measures to minimize the impacts will be identified. If needed and required based on federal regulations and/or TxDOT environmental guidance documents field delineations will be contacted and appropriate documentation submitted to TxDOT, but for the purpose of this scope & fee, it is assumed that no field delineation activities will be needed.
2. Authorization under section 404 of the Clean Water Act will be obtained. For the purposes of this scope & fee, it is assumed that permitting would not include the preparation of either a Pre-construction Notification or Individual Permit to the USACE. If tasks associated with U.S. Army Corps of Engineers (USACE) permitting are requested or required, these tasks can be added as a supplemental scope item, if needed.

**D. Endangered Species Act Compliance**

1. An analysis of the project's effects on federally listed threatened and endangered species will be conducted and documented in the appropriate documentation if required by TxDOT's environmental guidance documents to document the project's compliance with the Endangered Species Act. In addition to background research, a site visit will be conducted to assess the habitat relative to the habitat requirements of the federally listed species of potential occurrence in the project area as needed. For the purposes of this scope and cost estimate, it is assumed that no federally listed species or suitable habitat would be impacted by the proposed project.

**E. Public Involvement:**

1. The ENGINEER shall coordinate the appropriate public involvement associated with NEPA clearance per TxDOT's environmental rules (43 TAC 2) and guidance documents. It is assumed 1 public involvement event will be needed for this project. If additional events are requested or required, these tasks can be added as a supplemental scope item, if needed.

**F. Assumptions**

1. A presence/absence survey for federally endangered species will not be required. If the results of the biological evaluation form indicate a survey is necessary, or the U.S. Fish & Wildlife Service determines one or more surveys are needed, survey(s) would be completed under a separate scope of services and budget.

2. Section 7 consultation under the Endangered Species Act is not included in this scope of services. Section 7 consultation, if deemed necessary, would be completed under a separate scope and budget.
3. Impacts to waters of the U.S. are not anticipated. Preparation of Water Feature Delineation Report(s), an individual Section 404 permit, pre-construction notification, and/or mitigation planning and formal coordination with the U.S. Army Corps of Engineers are not included in this scope of services.
4. This scope does not include an archeological survey, testing and/or mitigation of sites. Survey, testing and/or mitigation would be conducted under a separate scope and budget.
5. All necessary land access will be secured by the Rodriguez Transportation Group or City of Seguin.
6. Any mitigation plan that may be required as a result of agency coordination or consultation would be completed under a separate scope and budget.
7. This scope of services does not include formal coordination with any regulatory agency.
8. This scope of services does not include a quantitative air quality analysis.
9. This scope of services does not include effort associated with Section 4(f) or 6(f) evaluation above a Section 4(f) Exception or De Minimis.
10. This scope of services does not include tasks associated with Opportunity for Public Hearing and/or Public Hearing.

### **FC 130 – Right-of-Way Data/Utilities**

All standards, procedures and equipment used by the Surveyor shall be such that the results of the survey will be in accordance with Board Rule 663.15, as promulgated by the Texas Board of Professional Land Surveyors.

The Engineer shall locate the existing ROW within the project limits from the current project control monuments and prepare a layout map for the project.

**A. Right-of-Way Map.** The Engineer shall obtain information on existing ROW and property information from as-built plans, ROW maps, and tax records and prepare a base map depicting the information.

The Engineer shall review and evaluate the existing ROW plus the limits of proposed ROW acquisition, if applicable, to verify that all construction staging and alignment considerations have been taken into account. The Engineer shall make every effort to prevent detours and utility relocations from extending beyond the existing/proposed ROW. The Engineer shall notify the City in writing if it is necessary to obtain additional construction easements or rights-of-entry and shall provide justification for such action. The Engineer shall be responsible for identifying and delineating any temporary construction easements in areas outside the existing/proposed ROW. Surveyor shall locate ROW pins and submit this info along with topographic file. Engineer shall delineate apparent existing ROW based on found surveyed pins and other existing features (e.g., fence lines, utility poles, etc), as well as available records from the City and developers.

**B. Utility Locations.** The limits of data collection for both Joe Carrillo St and Countryside Blvd for this task shall be as described below:

- Joe Carrillo St along south side only: from existing face of curb (FOC) to approximately 16' beyond apparent existing ROW (25' from existing FOC).
- Countryside Blvd along east side only: from existing roadway centerline crown to approximately 25' beyond existing FOC (or to easterly boundary line of HOA landscape lots where applicable).

The Engineer shall research available existing utility records and perform in-field utility verification (Quality Level C and D) with the objective of surveying and plotting visible above-ground utility features and using professional judgment in correlating those findings with utility records within the project limits. The lateral limits of the utility designating investigation are the greater extent of the existing ROW, proposed ROW, or temporary construction easements along the project route. All Subsurface engineering services for this project shall be completed in general accordance with the recommended practices and procedures described in ASCE publication ASCE/UESI/CI 38-22 "Standard Guideline for Investigating and Documenting Existing Utilities".

To accomplish this scope of work, the Engineer will perform the following tasks:

1. Contact the applicable "one call" agency and acquire records from all available utility owners including local municipalities (cities, counties, etc.).
2. Perform in-field visual site inspection. Compare utility record information with actual field conditions. Record indications of additional utility infrastructure and visual discrepancies with record drawings.
3. Interview available utility owners for needed clarification, resolution and found discrepancies, and details not provided on the record drawings.
4. Map the following utilities: water, wastewater, natural gas, gas/oil pipelines, electric, telephone, fiber, duct banks, cable TV, storm sewer and utility service lines. Irrigation lines are not included in this scope.
5. Record all marks on electronic field sketches and correlate such data with utility records and above ground appurtenances obtained from visual inspection to resolve differences and discrepancies. Denote any utilities found where ownership/utility type is not available from records as "unknown" facilities.
6. SUE Deliverables: Provide the City of Seguin and all affected utility companies and owners with a contact list, Utility Conflict Matrix (UCM), and utility conflict layout for each project with information such as:
  - a. owner's name;
  - b. contact person;
  - c. telephone numbers;
  - d. emergency contact number;
  - e. e-mail addresses; and
  - f. pertinent information concerning their respective affected utilities and facilities, including but not limited to: size, number of poles, material, and other information that readily identifies the utilities companies' facilities.
  - g. Utility Records/As-Builts obtained from utility owners in PDF format.
  - h. Utility CADD file – electronic MicroStation (DGN) files in US feet (2D) format, with SUE information superimposed over the survey topo/design plans.
  - i. Utility Report.

The Engineer is responsible for updating the UCM and utility conflict layout throughout the project and at each milestone.

**C. Easement Preparation (4 Parcels).** The Engineer shall perform sufficient field and office tasks to generate metes and bounds descriptions with survey plats for up to four (4) easement parcels. To accomplish this scope of work, the Engineer will perform the following tasks:

1. Perform analysis of existing ROW and boundary base map developed in Section A above to depict the reconstructed ROW and boundaries for use in parcel sketches.
2. Generate survey plats with metes and bounds descriptions for four (4) easement parcels along Joe Carrillo Blvd. (1.Argent Court of Seguin, LLC; 2.Grogan's West, LLC; 3.Seguin ISD, The Countryside Unit Two, Lot 1, Block 1; 4.Seguin ISD, The Countryside Unit 6, Lot 1, Block 1)
3. Review Schedule B items of Title Commitments provided by the City for the easement parcel areas.

#### **FC 140 – Project Management and Administration**

- A. Local Government (LG) transportation project assistance: Follow all applicable TxDOT LG protocols and continually monitor project tasks and deliverables to assure compliance with all applicable state and federal laws, so as to ensure the City of Seguin (LG) receives full reimbursement of all eligible project costs.
- B. Prepare invoices and monthly written progress reports.
- C. Develop and maintain a detailed project schedule to track project conformance to Attachment C, Work Schedule, for each work authorization. The schedule submittals shall be hard copy and electronic format.
- D. Meet on a scheduled basis with the City to review project progress.
- E. Prepare, distribute, and file both written and electronic correspondence.
- F. Implement and execute QAQC plan.

#### **FC 150 – Design Surveys and Photogrammetry**

It shall be the responsibility of the City to secure right of entry to private property for the purpose of performing any surveying, environmental, engineering or geotechnical activities. The Engineer shall not commit acts which will result in damages to private property and the Engineer will make every effort to comply with the wishes and address the concerns of private property owners.

**A. Design Surveys.** The Engineer shall verify the benchmark coordinates and establish additional horizontal and vertical control for the project. The Engineer shall provide supplemental field surveying services necessary to verify the Digital Terrain Model (DTM), produce topographic maps, locate existing utilities, and update topography. Coordinate geometry shall be based on and tied into State plane surface coordinate system. The Engineer shall provide:

1. Horizontal and Vertical Control Surveys (Project Control):  
The maximum distance between control points shall not exceed 1500 feet. The coordinate location and elevation of control points or center panel points based on GPS surveys conducted by the Surveyor shall meet standards of accuracy as set forth below.

The Surveyor shall establish horizontal & vertical control including a minimum of 3 primary points at the western-, northern- and eastern-most limits of the project. The survey control points (5/8" iron rods with caps set in concrete) will be set in locations that will likely be undisturbed by construction or maintenance. Secondary control points will be set throughout the project corridors as needed to complete the scope of work.

DATUM. All coordinates shall be based on the North American datum (NAD) 83 (1993 Adjustment). All elevations shall be based on the North American vertical datum (NAVD) of 1988 (Texas Coordinate System, South Central Zone)] with a scale factor of 1.00013 or as provided by the client. Elevations will be derived from GPS observations using Geoid 2018 model.

2. Horizontal and Vertical Control Sheets. The Engineer's Surveyor shall prepare a Horizontal and Vertical Control Sheet, signed, sealed and dated by the responsible RPLS for insertion into the plan set. The Horizontal and Vertical Control sheet identifies the primary survey control and the survey control monumentation used in the preparation of the project.

The following information should be shown on the Horizontal\Vertical Control Sheet:

- Monumentation set for Control (Description and Location ties).
- Surface Adjustment Factor and unit of measurement.
- Coordinates (SPC Zone and surface or grid).
- Relevant metadata.
- Graphic (Bar) Scale.
- RPLS signature, seal and date.

3. Survey limits for both Joe Carrillo St and Countryside Blvd shall be as described below:

- Joe Carrillo St along south side only: from existing face of curb (FOC) to approximately 16' beyond apparent existing ROW (25' from existing FOC).
- Countryside Blvd along east side only: from existing roadway centerline crown to approximately 25' beyond existing FOC (or to easterly boundary line of HOA landscape lots where applicable).

Within the survey limits the Engineer's Surveyor shall locate all trees with a description of tree type and size. The Engineer's Surveyor shall also obtain design survey data within the project limits at approximate 50' intervals and major grade breaks necessary to produce a one-foot interval contour DTM. This data will typically include as follows: edge of pavement/gutter & back of curb, crown (physical centerline), roadway striping, top and bottom of drainage ditches, sidewalk, fences, signs (with text), mailboxes, walls, paved areas, buildings, driveways (with type noted), culverts and other drainage features, visible utilities and visible evidence of underground utilities only.

4. Locate visible evidence of existing underground and visible utilities (location, elevation, size and direction). This information will be combined with the record drawings to develop a single "existing utility" DGN file. Obtain the top elevation of all utility manholes, pull boxes, junction boxes, meters, valves, etc. Powerline sag crossing elevations parallel to or over the existing roadway will not be obtained. Provide flowline shots and direction on all incoming and outgoing conduits in sanitary sewer manholes.
5. Right-of-entry to be secured by the City. The Engineer shall not commit acts which will result in damages to private property and the Engineer will make every effort to comply with the wishes and address the concerns of private property owners.
6. Obtain the top elevation and outside visible perimeter shots of all drainage junctions such as inlets, manholes, accessible junction boxes, etc. Obtain the flowline and direction of all conduits entering and exiting all drainage structures. If silt is present, remove as much as feasible to provide an accurate flowline shot. Provide the type and size of all conduits include pipes and box culverts.

7. Provide temporary signs, traffic control, flags, safety equipment, etc. and obtain necessary permits. Traffic shall be controlled in and near surveying operations adequately to comply with the latest edition of the TMUTCD.
8. If at any time during the contract period, the Surveyor encounters unforeseen circumstances which may materially affect the scope, complexity or character of the work authorized by the City, the Surveyor shall notify the City immediately with a complete description of the circumstances encountered.
9. The following definitions shall apply
  - DGN – Two-dimensional digital map containing natural ground features and improvements plotted in a horizontal plane along the X and Y axes. A planimetric map does not include relief elements such as spot elevations, cross-sections, or contours.
  - DTM – Three-dimensional digital model of the ground containing those features necessary to define surface relief. A three-dimensional model does not normally contain those planimetric features not necessary to define relief.
  - Horizontal and vertical ground control-Survey control points for which the X and Y coordinate and elevation have been determined by on the ground surveys.
10. Survey will be delivered in Microstation V8i. Electronic Delivery will include:
  - 2D Planimetrics and 3D DTM file in Microstation V8i
  - Microstation V8i surface
  - 2D Apparent ROW points/pins (found) will be included in 2D planimetrics file DGN
  - PDF file of scanned field book copies
  - Survey Data Adjustment reports
  - ASCII points list of field data collected
  - Survey Control Index Sheet and Horizontal and Vertical Control Sheet signed, sealed, and dated by a Registered Professional Land Surveyor on 11"x17" pdf

**B. Digital Planimetric Mapping (DGN) and Digital Terrain Modeling (DTM).**

1. The Surveyor shall prepare DGN files covering the specific work location, meeting the City's standards and specifications. All areas obscured by vegetation or other obstructions resulting in voids shall be surveyed on the ground.
2. The Surveyor shall prepare DTM files covering the specific work location, meeting the City's standards and specifications. All areas obscured by vegetation or other obstructions resulting in voids shall be surveyed on the ground.
3. The Surveyor shall provide DGN and DTM files on a medium and in a format acceptable to the City.

**FC 160 – Roadway Design**

**A. Preliminary Design (30%).** The Engineer shall:

Develop a preliminary project layout (Layout) for both Carrillo St and Countryside Blvd to be reviewed and approved by the City. The Layout shall consist of a planimetric file of existing features, the proposed improvements and identification of preliminary recommended ROW or Easement acquisition requirements.

The Layout shall also include the following features: existing/proposed sidewalk and shared use path (SUP), pedestrian crossings and accessible ramps, proposed crossing flashing beacons, cross culverts, lane widths, proposed pavement markings, cross slopes, and clear zones. Existing major subsurface and surface utilities shall be shown. The proposed alignment shall avoid, as much as possible, the relocation of existing utilities. The Engineer shall provide horizontal and vertical alignment of the project layout in English units for main lanes and cross streets.

**B. Final Plans (60%, 90%, and 100% Submittals).** The Engineer shall make final refinements to the horizontal/vertical geometry and continue with the development of detailed plans. Effort will include development and/or updates to the following:

1. Title Sheet/General Notes
2. Typical Sections
3. Project Layout Sheet
4. Typical Sections
5. General Notes
6. Roadway Quantity Sheets
7. Plan and Profile Sheets
8. Intersection Layout/Details
9. Others (HAL Data, Misc. Roadway Details)
10. Update roadway model/design cross section sheets

#### **FC 161 – Drainage**

##### **A. Drainage Study**

There are no drainage inlets along Carrillo St and Countryside Blvd. A single multiple barrel cross-culvert crossing Carrillo St. exists just east of Topaz Ave. This culvert will need to be extended to accommodate the proposed SUP along the south side of Carrillo St. The Engineer shall use data from as-built plans and FEMA maps to locate drainage outfall(s) and to determine the impacts of the proposed improvements on existing drainage outfalls and ponded widths. Findings will be summarized in a Drainage Technical Memo.

**B. Culvert Design.** The Engineer shall design all cross drainage in conformance with the latest edition of the City's Design and Construction Standards unless otherwise directed in writing. Cross drainage design shall be performed using Geopak Drainage and HY 8. Effort will include development of the following:

1. On and Off-site Drainage Area Maps.
2. Hydraulic Computations (ponding width)
3. Others (Misc. Drainage Details)

**C. Culvert Layout and Detailing of Drainage Features.** The Engineer shall use standard details where practical. Effort will include the following:

1. Culvert Layout (existing cross-culvert extension on Carrillo St)
2. Culvert Computations: Existing and Proposed

#### **FC 162 – Signing, Pavement Markings, Signals and Illumination**

**A. Signing and Pavement Markings.** The Engineer shall incorporate signing and pavement marking details into the roadway plan & profile sheets to include proposed striping, small signs, and delineators, as applicable. Small sign details will be prepared for non-standard signs.



## **B. School Zone Flashing Beacons and Push Button RRFB's at Pedestrian Crossings.**

1. Flashing Beacons: The Engineer shall prepare preliminary recommendations for the installation of solar powered school zone flashing beacons on Joe Carrillo Street in accordance with TMUTCD and other applicable guidelines. Upon approval by the City, the Engineer shall include all required design details in the final plans.
2. RRFB's: The Engineer shall prepare preliminary recommendations for installation of pedestrian-activated solar powered rectangular rapid flashing beacon (RRFB) improvements and other applicable pedestrian safety treatments at two existing (2) pedestrian crossings on Joe Carrillo Street at Koennecke Elementary School and Jim Barnes middle school.
  - a. Perform AM & PM 2 hour peak period pedestrian counts at the two existing marked school crossings across Joe Carrillo St at Koennecke Elementary school and Jim Barnes Middle School for 2 weekdays (8 counts total).
  - b. Perform a study to confirm all applicable conditions are met for installation of an RRFB as outlined in TxDOT Memo dated September 11, 2018 *Rectangular Rapid Flashing Beacons (RRFB's) and Pedestrian Hybrid Beacons (PHBs)* and FHWA Memo issued March 20, 2018 *Interim Approval for RRFBs (IA-21)*.
  - c. Document the findings and recommendations in a technical memo.

Upon approval by the City, the Engineer shall include all required design details in the final plans.

## **FC 163 – Miscellaneous**

Miscellaneous task includes: utility coordination, TCP, the final assembly of the construction plans, specifications and estimate, traffic The Engineer shall provide the following services:

### **A. Traffic Control Plan**

1. Narrative Sequence of Construction
2. Detour Layouts (if needed)
3. Construction Schedule

**B. Storm Water Pollution Prevention Plans (SWP3)** - The Engineer shall develop SWP3, on separate sheets or on the roadway plan and profile sheets, separate from (but in conformance with) the TCP, to minimize potential impact to receiving waterways. The SWP3 must include text describing the plan, quantities, type, phase, and locations of erosion control devices and any required permanent erosion control.

**C. Utility Coordination** – The Engineer shall provide current plan sheets with existing utilities shown, identify and coordinate with each utility company for relocations required, if any. The Engineer shall attend utility coordination meetings (2 maximum), as requested to facilitate utility conflict identification and resolution. The Engineer shall coordinate with the City to determine the location of each existing and proposed utility.

**D. Standards, Specifications and Estimate** – Updated estimates should be provided at the 60%, 90% and Final submittals.

## **E. Bid Phase Services**

1. Provide bidding support services including attending a pre-bid and bid opening meetings, assistance with responding to bidder questions, preparing addenda, tabulating and evaluating bids (including reference checks) and providing recommendation for award.
2. Furnish a set of final conformed construction contract documents including plan sheets, project manual and SWPPP to the awarded contractor including all addenda.

## **Deliverable/Submittal Requirements**

At each submittal, Engineer will provide a pdf of submitted documents to the City.

### **30% Submittal (Preliminary Project Layout)**

The Engineer will provide the City with the items outlined below:

1. Preliminary project layout (roll plot or sheets)
2. Typical Sections
3. Any design exceptions/waivers
4. TCP Concept (narrative and roll plot or sheets)
5. Preliminary Supporting Documents: Cost estimate, DSR, Design Cross Sections, Preliminary Utility Conflict Matrix (UCM), Stage Gate Checklist (if required), Form 1002 (if required), and internal QAQC Bluebeam review package.

### **60% Submittal (PS&E)**

The Engineer will provide the City with the items outlined below:

1. Updated Plans, including additional sheets not submitted at 30% including:
  - a. Culvert extension layout
  - b. SWP3 and EPIC sheets
2. Utility Status
3. Preliminary Drainage Memo
4. Preliminary sidewalk easement documents
5. Updated Supporting Documents: Cost estimate, DSR, Design Cross Sections, Preliminary Utility Conflict Matrix (UCM), Stage Gate Checklist (if required), Form 1002 (if required), and internal QAQC Bluebeam review package.

### **90% Submittal (PS&E)**

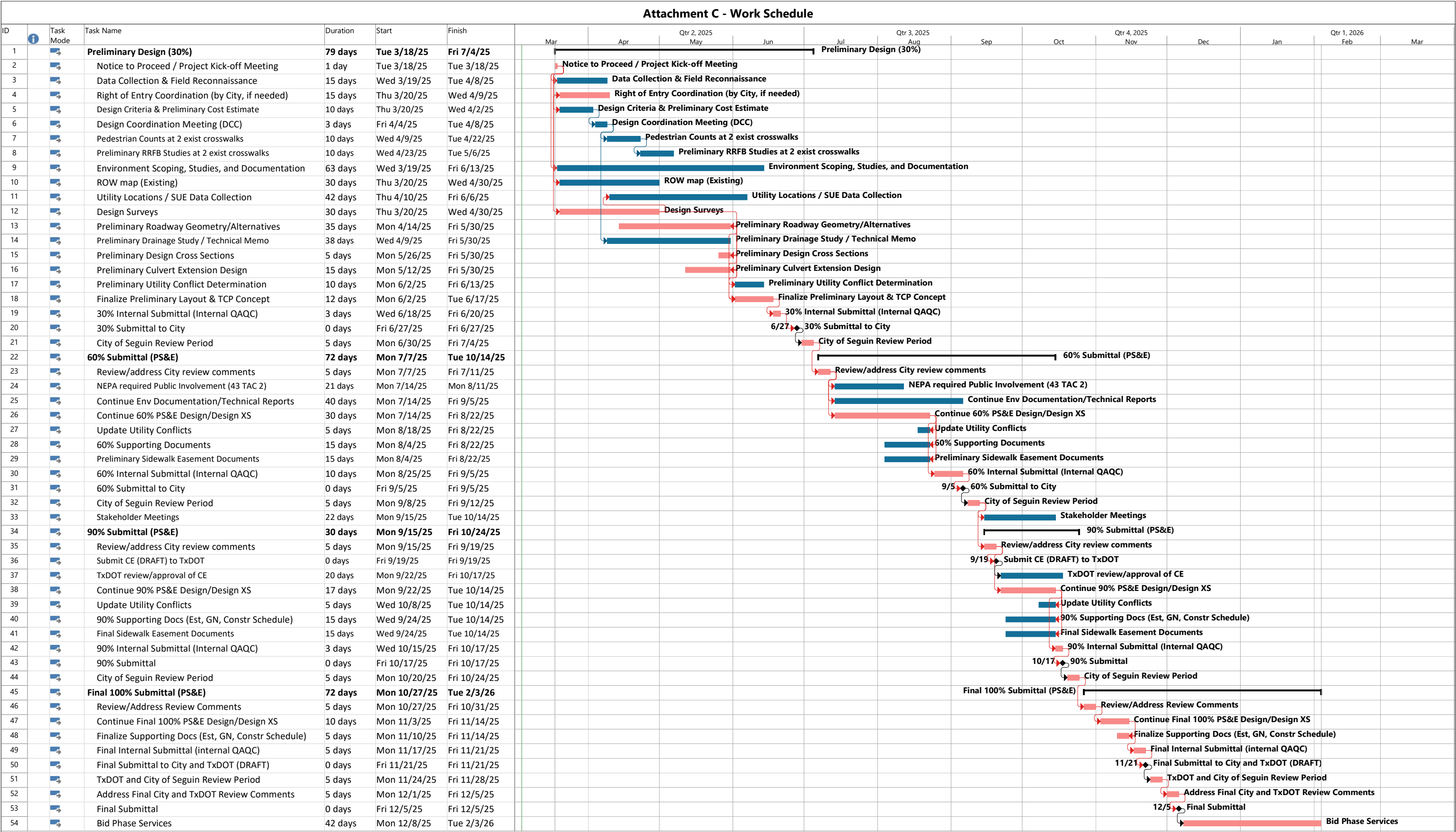
The Engineer will provide the City with the items outlined below:

1. Updated Plans w/ standards
2. Utility Status
3. Final Drainage Memo
4. Updated/Final easement documents
5. Updated Supporting Documents: Cost estimate, DSR, Design Cross Sections, Preliminary Utility Conflict Matrix (UCM), Stage Gate Checklist (if required), Form 1002 (if required), and internal QAQC Bluebeam review package, Construction Timeline, General Notes, Special Specification/Provisions, etc.

### **Final Submittal (PS&E)**

The Engineer will provide the City with the items outlined below:

1. Final Plans w/ standards
2. Final Utility Status
3. Updated Supporting Documents: Cost estimate, DSR, Design Cross Sections, Preliminary Utility Conflict Matrix (UCM), Stage Gate Checklist (if required), Form 1002 (if required), and internal QAQC Bluebeam review package, Construction Timeline, General Notes, Special Specification/Provisions, etc., Bid Forms, etc.



PRIME PROVIDER NAME: RODRIGUEZ TRANSPORTATION GROUP, INC.

	No. of Sheets	Project Manager	Quality Manager	Engineer (Senior)	Engineer (Project)	Engineer (Design)	Engineer-In- Training	Engineer Technician - Senior	Engineer Technician	Environmental Specialist - Senior	Surveyor (RPLS) - Senior	Administrative/Ci erical	Total Hours	Total Labor Cost
		\$274.89	\$248.85	\$240.16	\$193.87	\$159.15	\$117.19	\$151.91	\$107.06	\$182.29	\$211.23	\$95.49		
FC 110 Route and Design Studies														
A. Data Collection and Field Reconnaissance														
1. Secure and review available misc. data		1		1	2				2				6	\$ 1,116.91
2. Secure and review proposed development site plans					4		4						8	\$ 1,244.24
3. Secure and review available flood plain information				1									1	\$ 240.16
4. Conduct field reconnaissance and photographic record		4			4								8	\$ 1,875.04
B. Develop Design Criteria (DSR)		1			7								8	\$ 1,631.98
C. Preliminary Cost Estimate		1			2		2		3				8	\$ 1,218.19
D. Design Coordination Meeting (DCC) - Prepare for and attend		4		4	4								12	\$ 2,835.68
E. Stakeholder Meetings (in person) - up to 4 meetings														
1. Prepare Materials/Exhibits		2			2		2		2				8	\$ 1,386.02
2. Attend Meetings		8		8	12								28	\$ 6,446.84
FC 110 Subtotal - Labor		21		14	37		8		7				87	\$17,995.06
FC 120 Environmental Documentation (LUMP SUM)														
A. Environmental Scoping and Documentation														
		2				24	24		24	100			174	\$ 27,980.38
B. Data Collection														
						4	4		12	16			36	\$ 5,306.72
C. Section 404 Clean Water Act Compliance														
										16			16	\$ 2,916.64
D. Endangered Species Act Compliance														
					4		8		8	24			44	\$ 6,805.56
E. Public Involvement														
		2			2	6			8	24			42	\$ 7,123.86
FC 120 Subtotal - Labor		4			2	38	36		52	180			312	\$ 50,133.16
FC 130 Right-of-Way Data/Utilities (LUMP SUM)														
A. Right-of-Way Map														
1. Acquire and review documents, Perform field work, Preliminary digital file								20			8	2	30	\$ 4,919.02
2. Boundary Determination and Final Apparent Existing ROW digital file								25			5		30	\$ 4,853.90
B. Utility Locations														
1. Utility Research, Contact List, Site Recon, Utility CAD File, Utility Report		1		2	4			6	18			7	38	\$ 5,037.66
2. Develop and maintain Utility Conflict Matrix (UCM) & Exhibits as needed.		1			1		4	4	8				18	\$ 2,401.64
C. Sidewalk Easement Documents (4 parcels - unmonumented with Title)														
Parcel production								80			16	4	100	\$ 15,914.44
Review Title Work								8			4	4	16	\$ 2,442.16
FC 130 Subtotal - Labor		2		2	5		4	143	26		33	17	232	\$ 35,568.82
FC 140 Project Management and Administration (LUMP SUM)														
A. Local Government (LG) transportation project administration & monitoring														
		8											8	\$ 2,199.12
B. Prepare Invoices and Monthly Progress Reports														
		8		3	6							3	20	\$ 4,369.29
C. Develop and Maintain Project Schedule														
		8											8	\$ 2,199.12
D. Progress meetings with the City														
1. Prepare for and attend bi-weekly meetings		12		4	8	4			8				36	\$ 7,303.36
2. Prepare Project Meeting Minutes and monthly status updates		8											8	\$ 2,199.12
E. File Management														
		4			4	4							12	\$ 2,511.64
F. Perform QC Review of Submittals (DCC, 30%, 60%, 90%, 100%)														
			40										40	\$ 9,954.00
FC 140 Subtotal - Labor		48	40	7	18	8			8			3	132	\$ 30,735.65

PRIME PROVIDER NAME: RODRIGUEZ TRANSPORTATION GROUP, INC.

	No. of Sheets	Project Manager	Quality Manager	Engineer (Senior)	Engineer (Project)	Engineer (Design)	Engineer-In- Training	Engineer Technician - Senior	Engineer Technician	Environmental Specialist - Senior	Surveyor (RPLS) - Senior	Administrative/CI erical	Total Hours	Total Labor Cost
		\$274.89	\$248.85	\$240.16	\$193.87	\$159.15	\$117.19	\$151.91	\$107.06	\$182.29	\$211.23	\$95.49		
FC 150 Design Surveys and Photogrammetry (LUMP SUM)														
A. Design Surveys														
1.,3.-4., 6.-10.; Horizontal and Vertical Control Surveys								31			3		34	\$ 5,342.90
2. Horizontal and Vertical Control Sheets	1							9			2		11	\$ 1,789.65
5a. ROE - Identify parcels and develop mail list for City's use		2			1				5				8	\$ 1,278.95
5b. ROE Coordination with Landowners								1			2	2	5	\$ 765.35
B. Digital Planimetric Mapping and Digital Terrain Modeling - effort included in FC 150 Unit Cost														
FC 150 Subtotal - Labor	1	2			1			41	5		7	2	58	\$ 9,176.85
FC 160 Roadway Design (LUMP SUM)														
A. Preliminary Design (30%)														
1. Develop preliminary horizontal alignments					4			8					12	\$ 1,990.76
2. Develop and refine vertical profiles					4			8					12	\$ 1,990.76
3. Develop preliminary typical sections		4			4		4		4				16	\$ 2,772.04
4. Develop preliminary design cross sections		4			8	13		16	16				57	\$ 8,862.99
5. Establish proposed ROW limits		4			4								8	\$ 1,875.04
6. Prepare and refine preliminary Layout & Sheets	16	8		8	12	12	24	12	44				120	\$ 17,702.76
B. Final Plans (60%. 90% and 100% Submittals)														
1. Title Sheet	1	1		1	2	2	4		8				18	\$ 2,546.33
2. Index of Sheets	1	1		1	2	2	4		8				18	\$ 2,546.33
3. Project Layout Sheet	1	1		1	2	2	4		8				18	\$ 2,546.33
4a. Roadway Typical Sections - Existing	2	2		2	4	4	7		16				35	\$ 4,975.47
4b. Roadway Typical Sections - Proposed	2	2		2	4	4	7		16				35	\$ 4,975.47
5. General Notes	1	1		1	2	2	4		9				19	\$ 2,653.39
6. Roadway Quantity Summary Sheet (Incl. calculate Rdwy quantities)	1	1		1	2	2	5		12				23	\$ 3,091.76
7. Plan & Profile Sheets (1" = 50')	8	5		5	10	10	19	19	29				97	\$ 14,323.09
8. Intersection Layout/Details	2	2		2	3	3	6	6	9				31	\$ 4,667.30
9. Others (HAL Data, Misc Rdwy Details)	2	1			3	4	6	6	8				28	\$ 3,964.18
10. Update roadway model/Design cross-sections	21	8			24	24			120				176	\$ 23,518.80
FC 160 Subtotal - Labor	58	45		24	94	84	94	75	307				723	\$ 105,002.80
FC 161 Drainage (LUMP SUM)														
A. Drainage Study		2		8	20		40	16					86	\$ 13,466.62
B. Culvert Design														
1. On and Off-site Drainage Area Maps	2	1		4	8		10	12					35	\$ 5,781.31
2. Hydraulic Computations (ponding width)	1	1		2	4		8	12					27	\$ 4,291.13
3. Others (Misc. Drainage Details)	2	1		1	4			6					12	\$ 2,201.99
C. Culvert Layout and Detailing of Drainage Features														
1. Culvert Layout	1	1		2	6		8	10					27	\$ 4,375.05
2. Culvert Computations: Existing and Proposed	1	1		2	4		6	8					21	\$ 3,449.11
3. Drainage Quantity Summary Sheet	1	1		1	2		4	6					14	\$ 2,283.01
FC 161 Subtotal - Labor	8	8		20	48		76	70					222	\$ 35,848.22

PRIME PROVIDER NAME: RODRIGUEZ TRANSPORTATION GROUP, INC.

	No. of Sheets	Project Manager	Quality Manager	Engineer (Senior)	Engineer (Project)	Engineer (Design)	Engineer-In- Training	Engineer Technician - Senior	Engineer Technician	Environmental Specialist - Senior	Surveyor (RPLS) - Senior	Administrative/Ci erical	Total Hours	Total Labor Cost
		\$274.89	\$248.85	\$240.16	\$193.87	\$159.15	\$117.19	\$151.91	\$107.06	\$182.29	\$211.23	\$95.49		
FC 162 Signing, Pavement Markings, Signals and Illumination (LUMP SUM)														
A. Signing and Pavement Markings														\$ -
1. Provide signing and pavement marking details on P&P sheets														\$ -
2. Small sign details	1				4		4		4				12	\$ 1,672.48
3. Summary of Signs and Pavment Markings (incl. calc quantities)	1	2			4		6		6				18	\$ 2,670.76
4. Summary of Small Signs (SOSS)	1	2			4		6		6				18	\$ 2,670.76
B. School Zone Flashing Beacons and RRFB's at Ped Crossings														
1. Flashing Beacons				1	1		2						4	\$ 668.41
2. RRFB - 2 day Peak hr ped counts at 2 locations (setup/retrieve scout units)									16				16	\$ 1,712.96
2b. RRFB conditions study/determination		2		2	2		2						8	\$ 1,652.22
2c. RRFB Technical Memo		2		4	2		4						12	\$ 2,366.92
FC 162 Subtotal - Labor	3	8		7	17		24		32				88	\$ 13,414.51
FC 163 Miscellaneous (LUMP SUM)														
A. Traffic Control Plan														
1. Narrative Sequence of Construction	1	1		1	4	4			8				18	\$ 2,783.61
2. Detour Layouts	1	2		2	4	4			8				20	\$ 3,298.66
3. Construction Schedule				4	4	4							12	\$ 2,372.72
B. Storm Water Pollution Prevention Plans (SWP3)														
1. Stormwater Pol Prev Plan (SWP3) Sum Sheets	2				1	1			5	5			12	\$ 1,799.77
2. Stormwater Pol Prev Plan (SWP3) details on P&P sheets														\$ -
C. Utility Coordination														
1. Coordination with Utility Providers (phonecalls & e-mails)		8			8								16	\$ 3,750.08
2. Utility Coordination Meetings (up to 2), incl. follow up mtg notes		8			8								16	\$ 3,750.08
D. Standards, Specifications and Estimate (60%, 90%, and Final)		2	32	4	4	4	8		8				62	\$ 12,679.70
E. Bid Phase Services														
1. Attend Pre-Bid Meeting, respond to bidder questions, etc.		8			8								16	\$ 3,750.08
2. Furnish final set of plans, including all addenda to awarded contractor					8								8	\$ 1,550.96
FC 163 Subtotal - Labor	4	29	32	11	49	17	8		29	5			180	\$ 35,735.66
Total Sheets	74												74	
Total Labor Hours		167	72	85	271	147	250	329	466	185	40	22	2034	
Total - Labor Cost														\$ 333,610.73
UNIT COSTS (FC 130)		# OF UNITS	UNIT	COST/UNIT										
Quality Level (QL) D SUE		12000	LF	\$0.55										\$ 6,600.00
Quality Level (QL) C SUE		2500	LF	\$0.70										\$ 1,750.00
1 Person survey crew		16	hour	\$143.00										\$ 2,288.00
2 Person survey crew		12	hour	\$199.00										\$ 2,388.00
Subtotal - Unit Costs (FC 130)														\$ 13,026.00
UNIT COSTS (FC 150)		# OF UNITS	UNIT	COST/UNIT										
1 Person survey crew		37	per intersection	\$143.00										\$ 5,291.00
2 Person survey crew		12	hour	\$199.00										\$ 2,388.00
3 Person survey crew		6	hour	\$245.00										\$ 1,470.00
Subtotal - Unit Costs (FC 150)														\$ 9,149.00
UNIT COSTS (FC 162)		# OF UNITS	UNIT	COST/UNIT										
2-hr Turning Movement Count, Minor Intersection, Weekday		8	day/peak hr	\$500.00										\$ 4,000.00
Subtotal - Unit Costs (FC 162)														\$ 4,000.00

PRIME PROVIDER NAME: RODRIGUEZ TRANSPORTATION GROUP, INC.

	No. of Sheets	Project Manager	Quality Manager	Engineer (Senior)	Engineer (Project)	Engineer (Design)	Engineer-In- Training	Engineer Technician - Senior	Engineer Technician	Environmental Specialist - Senior	Surveyor (RPLS) - Senior	Administrative/Cl erical	Total Hours	Total Labor Cost
		\$274.89	\$248.85	\$240.16	\$193.87	\$159.15	\$117.19	\$151.91	\$107.06	\$182.29	\$211.23	\$95.49		
DIRECT EXPENSES - LUMP SUM		# OF UNITS	UNIT	COST/UNIT										
Meals		15	/day/person	\$68.00										\$ 1,020.00
Mileage		4336	/mile	\$0.70										\$ 3,035.20
Lodging/Hotel (Not including Taxes and Fees)		13	/day/person	\$110.00										\$ 1,430.00
Lodging/Hotel - Taxes and Fees		13	/day/person	\$45.00										\$ 585.00
Subtotal - Other Direct Expenses														\$ 6,070.20
GRAND TOTAL														\$ 365,855.93

## **EXHIBIT C**

### **WORK AUTHORIZATION**

**(To Be Completed and Executed After Contract Execution)**

**WORK AUTHORIZATION NO. \_\_\_\_\_**

**PROJECT: \_\_\_\_\_**

This Work Authorization is made pursuant to the terms and conditions of the Contract for Engineering Services, being dated \_\_\_\_\_, 20\_\_\_\_ and entered into by and between the City of Seguin, a Texas home rule municipality, (the "City") and \_\_\_\_\_ (the "Engineer").

Part 1. The Engineer will provide the following Engineering Services set forth in Attachment "B" of this Work Authorization.

Part 2. The maximum amount payable for services under this Work Authorization without modification is \_\_\_\_\_.

Part 3. Payment to the Engineer for the services established under this Work Authorization shall be made in accordance with the Contract.

Part 4. This Work Authorization shall become effective on the date of final acceptance and full execution of the parties hereto and shall terminate on \_\_\_\_\_, 20\_\_\_\_. The Engineering Services set forth in Attachment "B" of this Work Authorization shall be fully completed on or before said date unless extended by a Supplemental Work Authorization.

Part 5. This Work Authorization does not waive the parties' responsibilities and obligations provided under the Contract.

Part 6. The City believes it has sufficient funds currently available and authorized for expenditure to finance the costs of this Work Authorization. Engineer understands and agrees that the City's payment of amounts under this Work Authorization is contingent on the City receiving appropriations or other expenditure authority sufficient to allow the City, in the exercise of reasonable administrative discretion, to continue to make payments under this Contract. It is further understood and agreed by Engineer that the City shall have the right to terminate this Contract at the end of any City fiscal year if the Seguin City Council does not appropriate sufficient funds as determined by the City's budget for the fiscal year in question. The City may effect such termination by giving written notice of termination to Engineer.

Part 7. This Work Authorization is hereby accepted and acknowledged below.



EXECUTED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

ENGINEER:

[Insert Company Name HERE]

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

CITY:

City of Seguin, Texas

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

#### LIST OF ATTACHMENTS

Attachment A - Services to be Provided by City

Attachment B - Services to be Provided by Engineer

Attachment C - Work Schedule

Attachment D - Fee Schedule

## **EXHIBIT D**

### **RATE SCHEDULE**

**CPI Rate Adjustments:** Rates will remain firm for the initial first year of the Contract and such rates shall be deemed the “Initial Base Rates”. Engineer must request rate adjustments, in writing, at least thirty (30) days prior to each annual anniversary date of the Contract and any rate changes will take effect on the first day following the prior year. If Engineer fails to request a CPI rate adjustment, as set forth herein, the adjustment will be effective thirty (30) days after the City receives Engineer’s written request. No retroactive rate adjustments will be allowed.

Price adjustments will be made in accordance with changes in the U.S. Department of Labor Consumer Price Index (CPI-U) for All Urban Consumers, All Items, South Region (Base 1982-84 = 100).

The rate adjustment will be determined by multiplying the Initial Base Rates by a fraction, the numerator of which is the index number for most recently released index before each annual anniversary date of the Contract and the denominator of which is the index number for the first month of the Contract (the index number for the month in which the Contract was originally executed). If the products are greater than the Initial Base Rates, the City will pay the greater amounts as the rates during the successive year until the next rate adjustment. Rates for each successive year will never be less than the Initial Base Rates.

EXHIBIT D - RATE SCHEDULE			
LUMP SUM PAYMENT BASIS			
PRIME PROVIDER NAME:	Rodriguez Transportation Group, Inc.		
LABOR/STAFF CLASSIFICATION	YEARS OF EXPERIENCE	HOURLY RATE	HOURLY CONTRACT RATE
Project Manager	10+	\$ 95.00	\$ 274.89
Deputy Project Manager	10+	\$ 84.50	\$ 244.50
Quality Manager	10+	\$ 86.00	\$ 248.85
Engineer (Senior)	15+	\$ 83.00	\$ 240.16
Engineer (Project)	10 to 15	\$ 67.00	\$ 193.87
Engineer (Design)	5 to 10	\$ 55.00	\$ 159.15
Engineer (Traffic)	5 to 15	\$ 64.00	\$ 185.19
Engineer-In-Training	0 to 5	\$ 40.50	\$ 117.19
Engineer Technician - Senior	15+	\$ 52.50	\$ 151.91
Engineer Technician	5 to 15	\$ 37.00	\$ 107.06
Engineer Technician - Junior	0 to 5	\$ 32.00	\$ 92.59
Environmental Specialist - Senior	15+	\$ 60.00	\$ 173.61
Visualization 3D Specialist - Senior	15+	\$ 63.00	\$ 182.29
Visualization 3D Specialist	5 to 15	\$ 51.50	\$ 149.02
Project Control Specialist - Senior	15+	\$ 60.50	\$ 175.06
Project Control Specialist	5 to 15	\$ 45.00	\$ 130.21
Surveyor (RPLS) - Senior	15+	\$ 73.00	\$ 211.23
Surveyor (RPLS)	10 to 15	\$ 58.00	\$ 167.83
Surveyor (RPLS) - Junior	5 to 10	\$ 50.00	\$ 144.68
Survey Technician (Surveyor-In-Training) - SIT	5 to 10	\$ 39.00	\$ 112.85
Survey Technician	0 to 5	\$ 34.00	\$ 98.38
Administrative/Clerical	15+	\$ 33.00	\$ 95.49
Office Overhead Rate	160.68%		
Profit Rate:	11.00%		
Multiplier:	2.8935		
Escalation after year 1:	3.60%		

UNIT COST PAYMENT BASIS		
SERVICES TO BE PROVIDED	UNIT	COST/UNIT
Quality Level (QL) D SUE	LF	\$ 0.55
Quality Level (QL) C SUE	LF	\$ 0.70
1 Person survey crew	hour	\$ 143.00
2 Person survey crew	hour	\$ 199.00
3 Person survey crew	hour	\$ 245.00
2-hr Turning Movement Count, Minor Intersection, Weekday	per intersection	\$ 500.00

OTHER DIRECT EXPENSES		
ITEM	UNIT	FIXED COST
Meals	/day/person	Current State Rate
Mileage	/mile	Current State Rate
Lodging/Hotel (Not including Taxes and Fees)	/day/person	Current State Rate
Lodging/Hotel - Taxes and Fees	/day/person	\$ 45.00

**ACORD**<sup>TM</sup>**CERTIFICATE OF LIABILITY INSURANCE**

DATE (MM/DD/YYYY)

2/25/2025

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer any rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> <b>USI Southwest</b> <b>9811 Katy Freeway, Suite 500</b> <b>Houston, TX 77024</b> <b>713 490-4600</b>		<b>CONTACT NAME:</b> Rachel Townsend <b>PHONE (A/C, No, Ext):</b> 713 490-4600 <b>E-MAIL ADDRESS:</b> rachel.townsend@usi.com <b>FAX (A/C, No):</b> 713-490-4700															
<b>INSURED</b> <b>Rodriguez Transportation Group, Inc.</b> <b>11211 Taylor Draper Lane #100</b> <b>Austin, TX 78759</b>		<table border="1"> <thead> <tr> <th>INSURER(S) AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> </thead> <tbody> <tr> <td>INSURER A : Charter Oak Fire Insurance Company</td> <td>25615</td> </tr> <tr> <td>INSURER B : Travelers Property Cas. Co. of America</td> <td>25674</td> </tr> <tr> <td>INSURER C : Travelers Casualty and Surety Company</td> <td>19038</td> </tr> <tr> <td>INSURER D : Arch Insurance Company</td> <td>11150</td> </tr> <tr> <td>INSURER E : Travelers Indemnity Company of CT</td> <td>25682</td> </tr> <tr> <td>INSURER F :</td> <td></td> </tr> </tbody> </table>		INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A : Charter Oak Fire Insurance Company	25615	INSURER B : Travelers Property Cas. Co. of America	25674	INSURER C : Travelers Casualty and Surety Company	19038	INSURER D : Arch Insurance Company	11150	INSURER E : Travelers Indemnity Company of CT	25682	INSURER F :	
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INSURER F :																	

**COVERAGES****CERTIFICATE NUMBER:****REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			6800J8021462447	05/10/2024	05/10/2025	EACH OCCURRENCE \$2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$1,000,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$2,000,000 GENERAL AGGREGATE \$4,000,000 PRODUCTS - COMP/OP AGG \$4,000,000 \$
E	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS ONLY			BA7R7475152447G	05/10/2024	05/10/2025	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
B	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> EXCESS LIAB <input checked="" type="checkbox"/> RETENTION \$10000			CUP8F92630A2447	05/10/2024	05/10/2025	EACH OCCURRENCE \$5,000,000 AGGREGATE \$5,000,000 \$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE/OFFICER/MEMBER EXCLUDED? <input checked="" type="checkbox"/> Y <input type="checkbox"/> N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N/A	UB5K0363142447G	05/10/2024	05/10/2025	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000
D	Professional Liab Claims Made & Rep			PAAEP0159401	07/22/2024	07/22/2025	\$3,000,000 per claim \$3,000,000 annl aggr.

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Blanket Additional Insured on the General Liability and Auto is provided if required by written contract executed prior to a loss but limited to the operations of the Named Insured. Blanket Waiver of Subrogation is provided on all policies as required by written contract executed prior to a loss, except as prohibited by law. Umbrella Follows Form the General Liability, Auto, and Employers Liability.

(See Attached Descriptions)

**CERTIFICATE HOLDER****CANCELLATION**

City of Seguin  
 205 North River St.  
 Seguin, TX 78155

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

*Anthony J. Davis*

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## DESCRIPTIONS (Continued from Page 1)

**\*\* Workers Comp Information \*\***

**Proprietors/Partners/Executive Officers/Members Excluded:**

**Christopher Tomescu, President, ElecOfc.**

**RE: Joe Carrillo St/Countryside Bike.**

**Additional Insured Includes: The City of Seguin, its directors, officers and employees.**

**The General Liability and Automobile Liability policies contain a special endorsement with Primary and Noncontributory wording, when required by written contract.**

**EXHIBIT E**

**CERTIFICATES OF INSURANCE**

**ATTACHED BEHIND THIS PAGE**

## 18. EXHIBIT F - REQUIRED CONTRACT PROVISIONS

The non-Federal entity's contracts must contain applicable provisions described in Appendix II to Part 200—Contract Provisions for non-Federal Entity Contracts Under Federal Awards. **All State and Local Fiscal Recovery Fund (SLFRF) recipients must have and use documented procedures that are consistent with standards outlined in 2 CFR 200.317 through 2 CFR 200.320.**

### All Contracts

THRESHOLD	PROVISION	CITATION
>\$250,000  (Simplified Acquisition Threshold)	Contracts for more than the simplified acquisition threshold, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.	2 CFR 200  APPENDIX II (A)
>\$10,000	All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.	2 CFR 200  APPENDIX II (B)
None	<p>Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60–1.3 must include the equal opportunity clause provided under 41 CFR 60–1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964–1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”</p> <p>41 CFR 60-1.4 Equal opportunity clause.</p> <p>(b) Federally assisted construction contracts. (1) Except as otherwise provided, each administering agency shall require the inclusion of the following language as a condition of any grant, contract, loan, insurance, or guarantee involving federally assisted construction which is not exempt from the requirements of the equal opportunity clause:</p> <p>The [recipient] hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the following equal opportunity clause:</p> <p>During the performance of this contract, the contractor agrees as follows:</p> <p>(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex,</p>	2 CFR 200  APPENDIX II (C) and 41 CFR §60-1.4(b)

	<p>sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:</p> <p>Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.</p> <p>(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.</p> <p>(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.</p> <p>(4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.</p> <p>(5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.</p> <p>(6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.</p> <p>(7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.</p> <p>(8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor</p>	
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	<p>issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:</p> <p>Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.</p> <p>The [recipient] further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, that if the [recipient] so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.</p> <p>The [recipient] agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.</p> <p>The [recipient] further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the [recipient] agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the [recipient] under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such [recipient]; and refer the case to the Department of Justice for appropriate legal proceedings.</p>	
>\$2,000	<p>Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be</p>	<p>2 CFR 200 APPENDIX II (D)</p>

	<p>conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.</p>	
>\$100,000	<p>Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.</p>	<p>2 CFR 200 APPENDIX II (E)</p>
None	<p>Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under 37 CFR §401.2 (a) and the recipient or recipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or recipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.</p>	<p>2 CFR 200 APPENDIX II (F)</p>
>\$150,000	<p>Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).</p>	<p>2 CFR 200 APPENDIX II (G)</p>
None	<p>Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as</p>	<p>2 CFR 200 APPENDIX II (H)</p>

	well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.	
>\$100,000	Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.	2 CFR 200 APPENDIX II (I)  and 24 CFR §570.303
	<i>See</i> 2 CFR §200.323.	2 CFR 200 APPENDIX II (J)
	<i>See</i> 2 CFR §200.316.	2 CFR 200 APPENDIX II (K)
	<i>See</i> 2 CFR §200.322.	2 CFR 200 APPENDIX II (L)
None	The Federal awarding agency must establish conflict of interest policies for Federal awards. The non-Federal entity must disclose in writing any potential conflict of interest to the Federal awarding agency or pass-through entity in accordance with applicable Federal awarding agency policy.	2 CFR 200.112
None	The <a href="#">Federal awarding agency</a> and the <a href="#">non-Federal entity</a> should, whenever practicable, collect, transmit, and store <a href="#">Federal award</a> -related information in open and machine-readable formats rather than in closed formats or on paper in accordance with applicable legislative requirements. A machine-readable format is a format in a standard computer language (not English text) that can be read automatically by a web browser or computer system. The <a href="#">Federal awarding agency</a> or <a href="#">pass-through entity</a> must always provide or accept paper versions of <a href="#">Federal award</a> -related information to and from the <a href="#">non-Federal entity</a> upon request. If paper copies are submitted, the <a href="#">Federal awarding agency</a> or <a href="#">pass-through entity</a> must not require more than an original and two copies. When original records are electronic and cannot be altered, there is no need to create and retain paper copies. When original records are paper, electronic versions may be substituted through the use of duplication or other forms of electronic media provided that they are subject to periodic quality control reviews, provide reasonable safeguards against alteration, and remain readable.	2 CFR 200.336
None	<u>DISADVANTAGED BUSINESS ENTERPRISE (DBE)</u>  THIS PROCUREMENT OF PROFESSIONAL SERVICES SHALL COMPLY WITH GOVERNMENT CODE CHAPTER 2254, SUBCHAPTER A, AND ALL FEDERAL REQUIREMENTS INCLUDING THOSE DESCRIBED IN 23 CFR PART 172 AND THOSE RELATING TO PARTICIPATION BY DISADVANTAGED BUSINESS	23 CFR 172

ENTERPRISES (DBE'S), THE AMERICANS WITH DISABILITIES ACT, AND ENVIRONMENTAL MATTERS.

**DISADVANTAGED BUSINESS ENTERPRISE (DBE) GOAL: 0%**

It is anticipated this contract will include federal funds. The assigned DBE goal for participation in the work to be performed under this contract is 0% of the contract amount.

The prime consultant firm shall furnish evidence of compliance with the assigned DBE goal or evidence of a good faith effort acceptable to the City of Seguin to meet the assigned goal. If selected for a contract, the subconsultant firms identified in as part of the team shall be the same subconsultant firms that are shown in Table 1 of the contract. The prime consultant is obligated to utilize those subconsultants for services that are identified as part of a Work Authorization executed under the contract.

Firms identified as DBE must be certified by the Proposal deadline specified in this solicitation. TxDOT maintains the Texas Unified Certification Program Disadvantaged Business Enterprise (TUCP DBE) Directory, which lists businesses alphabetically and by work category.

The DBE goal can be achieved through a DBE prime consultant or DBE subconsultants.

Each subconsultant listed to meet the assigned DBE subcontracting goal must be DBE-certified in the North American Industry Classification System (NAICS) Code applicable to the type of service being offered by that firm that corresponds to the services being advertised in this solicitation. A subconsultant that is not DBE-certified in the NAICS Code applicable to the type of service being solicited will not be counted toward the assigned DBE subcontracting goal. A listing of Precertification Work Categories and Applicable DBE NAICS Work Codes may be found at:

<http://ftp.dot.state.tx.us/pub/txdot/ppd/dbe-naics-codes.pdf>. Additional information on the NAICS Codes can be found at: <https://www.naics.com/search/>.

A DBE subprovider offering services included in this solicitation must be certified in the NAICS Code for the particular service(s) as shown below:

1.9.1 GIS and Data Analysis: 541330 or 541360 or 541370

2.4.1 Nationwide Permit: 541330 or 541620

2.4.2 Clean Water Act §404 (Title 33, United States Code §1344) Permits (including mitigation and monitoring): 541330 or 541620

2.7.2 Historic Sites §4(f) (Title 23, United States Code of Federal Regulations §771.135) Evaluations: 541330 or 541620 or 541310

2.10.1 Archeological Surveys, Documentation, Excavations, Testing Reports, and Data Recovery Plans: 541330 or 541620

2.12.1 Socio-Economic and Environmental Justice Analyses: 541330 or 541620

2.13.1 Hazardous Materials Initial Site Assessment: 541330 or 541620

2.14.1 Environmental Document Preparation: 541330 or 541620

	<p>18.2.1 Subsurface Utility Engineering (Utility Engineering Investigation): 541330</p> <p>18.3.1 Utility Adjustment Coordination: 541330 or 541618</p>	
None	<p>Financial records, supporting documents, statistical records, and all other non-Federal entity records pertinent to a Federal award must be retained for a period of five years from the date of submission of the final expenditure report or, for Federal awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, respectively, as reported to the Federal awarding agency or pass-through entity in the case of a recipient. Federal awarding agencies and pass-through entities must not impose any other record retention requirements upon non-Federal entities. The only exceptions are the following:</p> <p>(a) If any litigation, claim, or audit is started before the expiration of the 5-year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken.</p> <p>(b) When the non-Federal entity is notified in writing by the Federal awarding agency, cognizant agency for audit, oversight agency for audit, cognizant agency for indirect costs, or pass-through entity to extend the retention period.</p> <p>(c) Records for real property and equipment acquired with Federal funds must be retained for 5 years after final disposition.</p> <p>(d) When records are transferred to or maintained by the Federal awarding agency or pass-through entity, the 5-year retention requirement is not applicable to the non-Federal entity.</p> <p>(e) Records for program income transactions after the period of performance. In some cases, recipients must report program income after the period of performance. Where there is such a requirement, the retention period for the records pertaining to the earning of the program income starts from the end of the non-Federal entity's fiscal year in which the program income is earned.</p> <p>(f) Indirect cost rate proposals and cost allocations plans. This paragraph applies to the following types of documents and their supporting records: indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates).</p> <p>(1) If submitted for negotiation. If the proposal, plan, or other computation is required to be submitted to the Federal Government (or to the pass-through entity) to form the basis for negotiation of the rate, then the 5-year retention period for its supporting records starts from the date of such submission.</p> <p>(2) If not submitted for negotiation. If the proposal, plan, or other computation is not required to be submitted to the Federal Government (or to the pass-through entity) for negotiation purposes, then the 5-year retention period for the proposal, plan, or computation and its supporting records starts from the end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.</p>	2 CFR 200.334
None	<p>CONTRACTS WITH COMPANIES ENGAGED IN BUSINESS WITH IRAN, SUDAN, OR FOREIGN TERRORIST ORGANIZATION PROHIBITED. A governmental entity may not enter into a governmental contract with a company that is identified on a list</p>	<p>Texas Government Code 2252.152</p>

	prepared and maintained under Section 806.051, 807.051, or <a href="#">2252.153</a> . The term "foreign terrorist organization" in this paragraph has the meaning assigned to such a term in Section 2252.151(2) of the Texas Government Code.	
>\$100,000	<p>PROVISION REQUIRED IN CONTRACT. (a) This section applies only to a contract that:</p> <p>(1) is between a governmental entity and a company with 10 or more full-time employees; and</p> <p>(2) has a value of \$100,000 or more that is to be paid wholly or partly from public funds of the governmental entity.</p> <p>(b) A governmental entity may not enter into a contract with a company for goods or services unless the contract contains a written verification from the company that it:</p> <p>(1) does not boycott Israel; and</p> <p>(2) will not boycott Israel during the term of the contract.</p>	Texas Government Code 2271
Option Contract Language for contracts awarded prior to Grant Award	The contract award is contingent upon the receipt of ARP Act funds. If no such funds are awarded, the contract shall terminate.	Optional
	Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.	42 U.S.C. 6201
	<p>REQUIRED OF ALL CONTRACTS AND PURCHASE ORDERS FOR WORK OR PRODUCTS UNDER THIS AWARD:</p> <ol style="list-style-type: none"> <li>Domestic Preference Procurement Clause (2 C.F.R. 200.322)</li> <li>"As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal Award, provide a preference for purchase, acquisition, or use of goods, products or materials produced in the United States (including, but not limited to iron, aluminum, steel, cement, and other manufactured products)".</li> <li>"The requirements of this section must be included in all subawards including contracts and purchase orders for work or products under this award."</li> </ol>	

## **19. EXHIBIT G – ADVANCED FUNDING AGREEMENT REQUIREMENTS**

The City of Seguin has the Advanced Funding Agreement (AFA) with TxDOT. The AFA has additional requirements for the Local Government beyond this contract. The Advanced Funding Agreement (AFA) is attached. If there are inconsistencies between the terms of this contract and the AFA Exhibit, the terms of the AFA Exhibit, as applicable, shall be deemed to be controlling.

One of the requirements of the AFA is the Disadvantage Business Enterprise (DBE). Even though the DBE Goal is 0%, monthly reporting is required.

<b>TxDOT:</b>				<b>Federal Highway Administration:</b>	
CCSJ #	0915-46-062	AFA ID	Z00008945	CFDA No.	20.205
AFA CSJs	0915-46-062			CFDA Title	Highway Planning and Construction
District #	15	Code Chart 64#	38800		
Project Name	Joe Carrillo St/Countryside Blvd			<i>AFA Not Used For Research &amp; Development</i>	

**STATE OF TEXAS       §**

**COUNTY OF TRAVIS   §**

**ADVANCE FUNDING AGREEMENT  
FOR A TRANSPORTATION ALTERNATIVES  
SET-ASIDE (TASA) PROGRAM PROJECT  
Utilizing State Transportation Development Credits  
TxDOT-Selected Off-System**

This Advance Funding Agreement for a Transportation Alternatives Set-Aside (TASA) Program Project (“Agreement”) is made between the State of Texas (State), acting through the Texas Department of Transportation, and the City of Seguin (Local Government), acting through its duly authorized officials.

**WITNESSETH**

**WHEREAS**, federal law establishes federally funded programs for transportation improvements to implement its public purposes, and

**WHEREAS**, the Texas Transportation Code, Section 201.103 establishes that the State shall design, construct and operate a system of highways in cooperation with local governments, and Section 222.052 authorizes the Texas Transportation Commission to accept contributions from political subdivisions for development and construction of public roads and the state highway system within the political subdivision, and

**WHEREAS**, Federal law, 23 USC §134 and 49 USC §5303, requires that State and Metropolitan Planning Organizations (MPOs) develop transportation plans and programs for urbanized areas of Texas, and

**WHEREAS**, Federal and state laws require local governments to meet certain contract standards relating to the management and administration of State and federal funds, and

**WHEREAS**, the Texas Transportation Commission has codified 43 TAC, Rules 15.50-15.56 that describe federal, state, and local responsibilities for cost participation in highway improvement and other transportation projects, and

**WHEREAS**, the rules and procedures for the Transportation Alternatives Set-Aside Program (TASA) are established in 23 USC §133(h), and 43 Texas Administrative Code, Part 1, Chapter 11, Subchapter G, §§11.400 – 11.418, and

**WHEREAS**, the Local Government prepared and submitted to the State or Metropolitan Planning Organization (MPO) a project nomination package for TASA funding consideration, which is briefly described as Joe Carrillo St/Countryside Blvd (Project), and



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Project Name	Joe Carrillo St/Countryside Blvd			AFA Not Used For Research & Development	

**WHEREAS**, the Texas Transportation Commission (Commission) passed Minute Order Number 116575 (MO) dated October 26, 2023 awarding funding for TASA projects in the TASA Program Call of the State, including Project, and

**WHEREAS**, the governing body of the Local Government has approved entering into this Agreement by resolution or ordinance dated **June 4, 2024**, which is attached to and made a part of this Agreement as Attachment C, Resolution or Ordinance. A map showing the Project location appears in Attachment A, Project Location Map, which is attached to and made a part of this Agreement, and

**NOW, THEREFORE**, the State and the Local Government agree as follows:

## **AGREEMENT**

### **1. Period of Agreement and Performance**

- A. Period of Agreement. This Agreement becomes effective when signed by the last party whose signing makes the Agreement fully executed. This Agreement shall remain in effect until terminated as provided below.
- B. Period of Performance.
  1. The Performance Period for each phase of work begins on the date specified in the Federal Project Authorization and Agreement (FPAA) for that phase of work. Local Government may not begin work until issued the State Letter of Authority (SLOA) for that phase of work.
  2. The Performance Period for each phase of work ends on the date specified in the FPAA for that phase of work.

### **2. Scope of Work and Use of Project**

- A. The scope of work for Project consists of constructing SUP on Countryside Blvd from FM 466 to Joe Carrillo St and Joe Carrillo from SH 123 to east of Lantana Gate. Also, constructing pedestrian infrastructure improvements including signing and crosswalks at school campuses.
- B. Any project changes proposed must be submitted in writing by Local Government to State. Substantive changes may also require an amendment to this Agreement and the approval of the FHWA, State, MPO, or the Commission. Any changes undertaken without written approval and amendment of this Agreement may jeopardize not only the federal funding for the changes, but the federal funding of the entire Project.

### **3. Project Sources and Uses of Funds**

The total estimated development cost of the Project is shown in Attachment B, Project Budget Estimate and Source of Funds (Attachment B).

- A. If Local Government will perform any work under this Agreement for which reimbursement will be provided by or through the State, the Local Government must complete training. If federal funds are being used, the training must be completed before federal spending authority is obligated. Training is complete when at least one

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individual who is working actively and directly on the Project successfully completes and receives a certificate for the course entitled "Local Government Project Procedures and Qualification for the Texas Department of Transportation" and retains qualification in accordance with applicable TxDOT procedures. Upon request, Local Government shall provide the certificate of qualification to State. The individual who receives the training certificate may be an employee of Local Government or an employee of a firm that has been contracted by Local Government to perform oversight of the Project. State in its discretion may deny reimbursement if Local Government has not continuously designated in writing a qualified individual to work actively on or to directly oversee the Project.

- B. The total estimated project cost as shown in Attachment B includes the Local Government's estimated itemized cost of real property, utilities, environmental assessments, construction, and other construction related costs. To be eligible for reimbursement or as in-kind contribution, costs must have been included in the nomination form approved by the Texas Transportation Commission or MPO in consultation with State. Local Government must submit to State evidence of payment for eligible in-kind costs at least once per calendar quarter using the State's In-Kind Match Reporting form.
- C. State and the Federal Government will not reimburse Local Government for any work performed outside the Performance Period. After federal funds have been obligated, State will send to Local Government a copy of the formal documentation showing the obligation of funds including federal award information. Local Government is responsible for 100 percent of the cost of any work performed under its direction or control before the federal spending authority is formally obligated.
- D. The Project budget and source of funds estimate based on the budget provided in the application is included in Attachment B. Attachment B shows the percentage and estimated dollar amounts to be contributed to Project by state and local sources, as well as the maximum amount in federal TASA funds assigned by the Commission or MPO in consultation with State. This Agreement may be amended from time to time as required to meet the funding commitments based on revisions to the TASA, FPAA, or other federal documents.
- E. State will be responsible for securing the federal share of funding required for the development and construction of Project, in an amount not to exceed 80 percent of the actual cost of the work up to the amount of funds approved for Project by the Texas Transportation Commission or MPO in consultation with State. Federal funds will be reimbursed on a cost basis. Project costs incurred prior to issuance of the SLOA are not eligible for reimbursement.
- F. The Local Government will be responsible for all non-federal or non-State participation costs associated with the Project, unless otherwise provided for in this Agreement or approved otherwise in an amendment to this Agreement. For items of work subject to specified percentage funding, the Local Government shall only in those instances be responsible for all Project costs that are greater than the maximum State and federal participation specified in Attachment B and for overruns in excess of the amount specified in Attachment B to be paid by the Local Government. If the Project was State-selected, the State may apply a portion of any excess program funds to cover all or a portion of any overrun based on criteria provided by 43 Tex. Admin. Code §11.411(d).

TxDOT:				Federal Highway Administration:	
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District #	15	Code Chart 64#	38800		
Project Name	Joe Carrillo St/Countryside Blvd			AFA Not Used For Research & Development	

- G. The budget in Attachment B will clearly state all items subject to fixed price funding, specified percentage funding, and the periodic payment schedule, when periodic payments have been approved by the State.
- H. When fixed price funding is used, the Local Government is responsible for the fixed price amount specified in Attachment B. Fixed prices are not subject to adjustment unless (1) differing site conditions are encountered; (2) further definition of the Local Government's requested scope of work identifies greatly differing costs from those estimated; (3) work requested by the Local Government is determined to be ineligible for federal participation; or (4) the adjustment is mutually agreed to by the State and the Local Government.
- I. Following execution of this Agreement, but prior to the performance of any plan review work by State, Local Government will pay to State the amount specified in Attachment B for plan review. At least 60 days prior to the date set for receipt of the construction bids, Local Government shall remit its remaining local match as specified in Attachment B for State's estimated construction oversight and construction cost.
- J. In the event State determines that additional funding is required by Local Government at any time during Project, State will notify Local Government in writing. Local Government is responsible for the percentage of the authorized Project cost shown in Attachment B and 100 percent of any overruns above the federally authorized amount. Local Government will make payment to State within 30 days from receipt of State's written notification.
- K. Whenever funds are paid by Local Government to State under this Agreement, Local Government will remit a warrant made payable to the "Texas Department of Transportation". The warrant will be deposited by State and managed by State. Funds may only be applied by State to Project.
- L. Upon completion of Project, State will perform a final accounting of Project costs. Any funds due to Local Government, State, or the Federal Government will be promptly paid by the owing party.
- M. In the event Project is not completed, State may seek reimbursement from Local Government of the expended federal funds. Local Government will remit the required funds to State within 60 days from receipt of State's notification.
- N. If any existing or future local ordinances, commissioners court orders, rules, policies, or other directives, including but not limited to outdoor advertising billboards and storm water drainage facility requirements, are more restrictive than state or federal regulations, or if any other locally proposed changes, including but not limited to plats or re-plats, result in increased costs, then any increased costs associated with the ordinances or changes will be paid by Local Government. The cost of providing right of way acquired by State shall mean the total expenses in acquiring the property interests through negotiations, including, but not limited to, expenses related to relocation, removal, and adjustment of eligible utilities.
- O. The state auditor may conduct an audit or investigation of any entity receiving funds from the State directly under the Agreement or indirectly through a contract or subcontract under the Agreement. Acceptance of funds directly under the Agreement or indirectly through a contract or subcontract under this Agreement acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. An entity that is the subject of an audit or investigation must provide the state auditor

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with access to any information the state auditor considers relevant to the investigation or audit.

- P. State will not pay interest on any funds provided by Local Government.
- Q. State will not execute the contract for the construction of Project until the required funding has been made available by Local Government in accordance with this Agreement.
- R. Local Government is authorized to submit requests for reimbursement by submitting the original of an itemized invoice in a form and containing all items required by State no more frequently than monthly, and no later than 90 days after costs are incurred. If Local Government submits invoices more than 90 days after the costs are incurred, and if federal funding is reduced as a result, State shall have no responsibility to reimburse Local Government for those costs.
- S. If Local Government is an Economically Disadvantaged County (EDC) or the State or MPO selected project meets the State's or MPO's criteria to receive Transportation Development Credits in lieu of providing a cash local match, and the State has approved adjustments to the standard financing arrangement, this agreement reflects those adjustments.

#### 4. Termination of the Agreement

- A. This Agreement may be terminated by any of the following conditions:
  - 1. By mutual written consent and agreement of all parties;
  - 2. By any party with 90 days written notice; or
  - 3. By either party, upon the failure of the other party to fulfill the obligations as set forth in this Agreement. Any cost incurred due to such breach of contract shall be paid by the breaching party.
- B. If the potential termination of this Agreement is due to the failure of Local Government to fulfill its contractual obligations, State will notify Local Government that possible breach of contract has occurred. Local Government should make every effort to remedy the breach within a period mutually agreed upon by both parties.
- C. The Agreement may be terminated by the State because the parties are not able to execute a mutually agreeable amendment when the costs for Local Government requested items increase significantly due to differing site conditions, determination that Local government requested work is ineligible for federal or state cost participation, or a more thorough definition of the Local Government's proposed work scope identifies greatly differing costs from those estimated. The State will reimburse Local Government remaining funds to the Local Government within ninety (90) days of termination;
- D. If Local Government withdraws from Project after this Agreement is executed, Local Government shall be responsible for all direct and indirect Project costs as identified by the State's cost accounting system and with 2 CFR Part 200 recapture requirements.
- E. A project may be eliminated from the program as outlined below. If Project is eliminated for any of these reasons, this Agreement will be appropriately terminated. A project may be eliminated from the program, and this Agreement terminated, if:
  - 1. Local Government fails to satisfy any requirements of the program rules cited in 43 Texas Administrative Code, Part 1, Chapter 11, Subchapter G, §§11.400 – 11.418.

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2. The implementation of Project would involve significant deviation from the activities proposed in the nomination form and approved by the Texas Transportation Commission or MPO in consultation with State.
  3. Local Government withdraws from participation in Project.
  4. State determines that federal funding may be lost due to Project not being implemented and completed.
  5. Funds are not appropriated, in which case this Agreement shall be terminated immediately with no liability to either party. Payment under this Agreement beyond the current fiscal biennium is subject to availability of appropriated funds.
  6. A construction contract has not been awarded or construction has not been initiated within three years after the date that the Commission or MPO selected the project or by a letting date determined by the state and agreed to by the Local Government.
  7. Local Government fails to attend progress meetings at least twice yearly, as scheduled by State.
- F. State, at its sole discretion, may terminate this Agreement if State does not receive project invoice from Local Government within 270 days of FPAA.

## 5. Amendments

This Agreement may be amended due to changes in the work, the amount of funding required to complete Project, or the responsibilities of the parties. Such amendment must be made through a mutually agreed upon, written amendment that is executed by the parties.

## 6. Remedies

This Agreement shall not be considered as specifying the exclusive remedy for any agreement default, but all remedies existing at law and in equity may be availed of by either party to this Agreement and shall be cumulative.

## 7. Utilities

Local Government shall be responsible for the adjustment, removal, or relocation of utilities or utility facilities in accordance with applicable State laws, regulations, rules, policies, and procedures, including any cost to State of a delay resulting from Local Government's failure to ensure that utilities or utility facilities are adjusted, removed, or relocated before the scheduled beginning of construction. At the State's discretion, State may reimburse Local Government for minor, incidental utility adjustments that are identified during the preliminary engineering phase if they are eligible for federal reimbursement. Local Government must obtain advance approval for any variance from established procedures. Before a construction contract is let, Local Government shall provide, at State's request, a certification stating that Local Government has completed the adjustment of all utilities that must be adjusted before construction begins. Additional utility work may be required due to unknown conditions discovered during construction. These costs may be eligible for TASA participation if the following conditions are met: (1) the activity is required to complete Project; (2) the cost is incidental to Project; and (3) TASA funding is available. Any change orders must be approved by State prior to incurring any cost for which reimbursement is sought.

## 8. Environmental Assessment and Mitigation

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Development of Project must comply with the National Environmental Policy Act and the National Historic Preservation Act of 1966, which require environmental clearance of federal-aid projects.

- A. The **Local Government** is responsible for the identification and assessment of any environmental problems associated with the development of Project.
- B. Local Government is responsible for the cost of any environmental problem's mitigation and remediation. These costs will not be reimbursed or credited towards Local Government's financial share of Project unless specified in the nomination form and approved by State or MPO in consultation with State.
- C. Local Government is responsible for providing any public meetings or public hearings required for development of the environmental assessment, including any public hearing requirements that may be necessary when adding a bike lane.
- D. Before the advertisement for bids, Local Government shall provide to State written documentation from the appropriate regulatory agency or agencies that all environmental clearances have been obtained.

#### 9. **Compliance with Accessibility Standards**

All parties to this Agreement shall ensure that the plans for and the construction of all projects subject to this Agreement are in compliance with standards issued or approved by the Texas Department of Licensing and Regulation (TDLR) as meeting or consistent with minimum accessibility requirements of the Americans with Disabilities Act (P.L. 101-336) (ADA).

#### 10. **Architectural and Engineering Services**

- A. Architectural and engineering services for preliminary engineering will be provided by the **Local Government**. In procuring professional services, the parties to this Agreement must comply with federal requirements cited in 23 CFR Part 172 if Project is federally funded and Local Government will be seeking reimbursement for these services or if these services will be used as in-kind contributions; and with Texas Government Code Subchapter 225A.A., in all cases. Professional services contracts for federally funded projects must conform to federal requirements. Variety
- B. The architectural contract documents shall be developed in accordance with the standards of the American Institute of Architects, the U.S. Secretary of the Interior's Standards for Historic Preservation Projects, Standards and Guidelines for Archeology and Historic Preservation, the National Register Bulletin Number 36: Guidelines for Evaluating and Registering Historical Archeological Sites and in consultation with the State Historic Preservation Officer, as applicable. The engineering plans shall be developed in accordance with State's applicable Standard Specifications for Construction and Maintenance of Highways, Streets and Bridges and the two American Association of State Highway and Transportation Officials' ("AASHTO") publications, "A Policy on Geometric Design of Highways and Streets" and "Guide for the Development of Bicycle Facilities," as applicable. All design criteria for bicycle and pedestrian bridges must comply with TxDOT's Bridge Design Manual and AASHTO's Load and Resistance Factor Design (LRFD) Guide Specifications for the Design of Pedestrian Bridges (latest edition) as applicable. All contract procurement procedures and documents must adhere to the applicable requirements established in the Standard Specifications for Construction and Maintenance of Highways, Streets and Bridges. The use of other systems of specifications shall be approved by State in writing in advance.

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- C. When architectural and engineering services are provided by or through Local Government, Local Government shall submit any plans it has completed to State for review and approval on an agreed upon schedule. Local Government may also submit the plans to State for review any time prior to completion. Local Government shall make the necessary revisions determined by State. Local Government will not let the construction contract until all required plans have received State approval.
- D. When architectural and engineering services are provided by or through State, then the State is responsible for the delivery and performance of any required architectural or preliminary engineering work. Local Government may review and comment on the work, including any proposed changes to the scope of work, as required to accomplish Project purposes. State will cooperate with Local Government in accomplishing these Project purposes to the degree permitted by state and federal law.

## 11. Construction Responsibilities

- A. The **Local Government** shall advertise for construction bids, issue bid proposals, receive and tabulate the bids, and award and administer the contract for construction of Project. Administration of the contract includes the responsibility for construction engineering and for issuance of any change orders, supplemental agreements, amendments, or additional work orders that may become necessary subsequent to the award of the construction contract. To ensure federal funding eligibility, projects must be authorized by State prior to advertising for construction.
- B. All contract letting and award procedures must be approved by State prior to letting and award of the construction contract, whether the construction contract is awarded by State or by Local Government.
- C. All contract change order review and approval procedures must be approved by State prior to start of construction.
- D. If the Local Government is the responsible party, the State must review and approve change orders.
- E. Upon completion of Project, the party constructing Project will issue and sign a "Notification of Completion" acknowledging Project's construction completion.
- F. For federally funded contracts, the parties to this Agreement will comply with federal construction requirements provided in 23 CFR Parts 633 and 635, and shall include the latest version of Form "FHWA-1273" in the contract bidding documents. If force account work will be performed, a finding of cost effectiveness shall be made in compliance with 23 CFR Subpart 635.B.
- G. Any field changes, supplemental agreements, or revisions to the design plans that may occur after the construction contract is awarded will be mutually agreed to by State and Local Government prior to authorizing the contractor to perform the work. Prior to completion of Project, the party responsible for construction will notify the other party to this Agreement of the anticipated completion date. All parties will be afforded the opportunity to assist in the final review of the construction services performed by the contractor.

## 12. Project Maintenance

- A. Upon completion of Project, Local Government will be responsible for maintaining the completed facility for public use. The property shall be maintained and operated for the purpose for which it was approved and funded for a period commensurate with the

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federal investment or State rules, whichever is greater. Should Local Government at any time after Project completion decide it can no longer maintain and operate Project

for its intended purpose, Local Government shall consult with State and the FHWA as to the disposal or alternate uses, consistent with Project's original intent. State may require Local Government to return the federal funds in accordance with 2 CFR Part 200 federal recapture requirements. Should Local Government consider conveying the property, State and FHWA must be notified prior to the sale, transfer, or disposal of any property that received federal funds. Written concurrence of approval for the transaction, detailing any required recapture, must be obtained from FHWA prior to the transaction. Advance notice from Local Government of their intended action must be submitted to State for an FHWA review a minimum of 90 days prior to any action being taken by Local Government. Local Government shall be held responsible for reimbursement of all federal funds used or a portion of those funds based on a pro-rata amount, considering the original percentage of federal funds provided and the time elapsed from Project completion date. This same percentage of reimbursement also applies to any amount of profit that may be derived from the conveyance of the property, as applicable.

- B. Any manufacturer warranties extended to Local Government as a result of Project shall remain in the name of Local Government. State shall not be responsible for honoring any warranties under this Agreement.
- C. Should Local Government derive any income from the development and operation of Project, a portion of the proceeds sufficient for the maintenance and upkeep of the property shall be set aside for future maintenance. A project income report shall be submitted to State on a quarterly basis. Monies set aside according to this provision shall be expended using accounting procedures and with the property management standards established in 2 CFR Part 200.
- D. Should any historic properties be included in or affected by this federally funded Project, the historic integrity of the property and any contributing features must continue to be preserved regardless of any approved changes that may occur throughout the life of Project.

### 13. Right of Way and Real Property Acquisition

- A. Right of way and real property acquisition shall be the responsibility of Local Government. Title to right of way and other related real property must be acceptable to State before funds may be expended for the improvement of the right of way or real property.
- B. If Local Government is the owner of any part of Project site under this Agreement, Local Government shall permit State or its authorized representative access to occupy the site to perform all activities required to execute the work.
- C. Local Government will comply with and assume the costs for compliance with all the requirements of Title II and Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 USC §4601 et seq., including those provisions relating to incidental expenses incurred by the property owners in conveying the real property to Local Government, and benefits applicable to the relocation of any displaced person as defined in 49 CFR §24.2(g). Documentation to support such



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compliance must be maintained and made available to State and its representatives for review and inspection.

- D. Local Government shall assume all costs and perform all work necessary to obtain needed evidence of title or right of use to the real property required for development of Project. Evidence of title or right of use shall be acquired in the name of (1) State, if the real property is to be made part of the State Highway System, or (2) Local Government, if the real property is not to be made part of the State Highway System. The evidence of title or rights shall be acceptable to State, and be free and clear of all encroachments. Local Government shall secure and provide easements and any needed rights of entry over any other land needed to develop Project according to the approved Project plans. Local Government shall be responsible for securing any additional real property required for completion of Project.
- E. Local Government shall prepare real property maps, property descriptions, and other data as needed to properly describe the real property and submit them to State for approval prior to Local Government acquiring the real property. Tracings of the maps shall be retained by Local Government for a permanent record.
- F. Local Government shall determine property values for each real property parcel to be purchased with federal funds using methods acceptable to State and shall submit to State a tabulation of the values so determined, signed by the appropriate Local Government representative. The tabulations must list the parcel numbers, ownership, acreage, and recommended compensation. The tabulation must be accompanied by an explanation to support the estimated values, together with a copy of the documentation and reports used in calculating each parcel's value. Expenses incurred by Local Government in performing this work may be eligible for reimbursement after Local Government has received written authorization by State to proceed with determination of real property values. State will review the data submitted and will base its reimbursement for parcel acquisitions on these in determining the fair market values. Local Government will not be reimbursed for right-of-way costs on state-selected projects.
- G. For State-selected TASA projects, Local Government shall not use eminent domain or condemnation to acquire real property for this TASA Project.
- H. Reimbursement for real property costs will be made to Local Government for real property purchased in an amount not to exceed 80 percent of the cost of the real property purchased in accordance with the terms and provisions of this Agreement. Reimbursement will be in an amount not to exceed 80 percent of State's predetermined fair market value of each parcel, or the net cost thereof, whichever is less. In addition, reimbursement will be made to Local Government for necessary payments to appraisers for expenses incurred in order to assure good title. Local Government will not be reimbursed for right-of-way costs on state-selected projects.
- I. Local Government and current property owner are responsible for any costs associated with the relocation of displaced persons and personal property as well as incidental expenses incurred in acquiring property to implement Project. State will not pay any of these costs.
- J. If Project requires the use of real property to which Local Government will not hold title, a separate agreement between the owners of the real property and Local Government must be executed prior to execution of this Agreement. The separate agreement between Local Government and the current property owner must establish that Project

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will be dedicated for public use for a period of time not less than ten years after project completion and commensurate with the federal investment. For State-selected projects, this is outlined in 43 Tex. Admin. Code §11.417. The separate agreement

must define the responsibilities of the parties as to the use of the real property and operation and maintenance of Project after completion. The separate agreement must be approved by State prior to its execution and a copy of the executed separate agreement shall be provided to State.

- K. Local Government shall execute individually or produce a legal document as necessary to provide for Project's continued use from the date of completion, and agrees to cause the same to be recorded in the land records of the appropriate jurisdiction.
- L. Local governments receiving federal funds must comply with 23 CFR Part 710 and 49 CFR Part 24, and with the procedures provided in Chapter 6 of the State's Local Government Project Policy Manual. Local Government agrees to monitor Project to ensure: (1) continued use of the property for approved activities, and (2) the repayment of the Federal funds, as appropriate. Local Government agrees to the review of their Project accounts and site visits by State during the development of Project at any time. Upon Project completion, State will continue to perform periodic visits to confirm Project's continued use and upkeep.
- M. Before the advertisement for bids, Local Government shall provide a certification to State that all real property has been acquired.

#### 14. Insurance

- A. Should this Agreement authorize Local Government or its contractor to perform any work on State right of way, before beginning work, the entity performing the work shall provide State with a fully executed copy of State's Form 1560 Certificate of Insurance verifying the existence of coverage in the amounts and types specified on the Certificate of Insurance for all persons and entities working on State right of way. This coverage shall be maintained until all work on State right of way is complete. If coverage is not maintained, all work on State right of way shall cease immediately, and State may recover damages and all costs of completing the work.
- B. For projects including buildings, Local Government agrees to insure the building according to Department specifications and further agrees to name the Federal Government as a "Loss Payee" should the building be destroyed.

#### 15. Notices, Invoices, Payments, and Project Inquiries

All notices to either party shall be delivered personally or sent by certified or U.S. mail, postage prepaid, addressed to that party at the following address:

Local Government:	State:
City of Seguin ATTN: City Manager 205 N. River Street Seguin, TX 78155	Texas Department of Transportation ATTN: Director of Contract Services 125 E. 11 <sup>th</sup> Street Austin, TX 78701

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All notices shall be deemed given on the date delivered in person or deposited in the mail, unless otherwise provided by this agreement. Either party may change the above address by sending written notice of the change to the other party. Either party may request in writing that notices shall be delivered personally or by certified U.S. mail, and that request shall be carried out by the other party.

Invoicing, payment, and project inquiries must be sent to the following address, which the State may change by sending written notice of the change to the Local Government:

Texas Department of Transportation  
 ATTN: District Advanced Project Development Director  
 4615 Northwest Loop 410  
 San Antonio, TX 78229

All invoicing, payment, and project inquiries must include the following information:

County: Guadalupe  
 Local Government: City of Seguin  
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 Highway or Roadway: Joe Carrillo St

#### 16. Legal Construction

In case one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions and this Agreement shall be construed as if it did not contain the invalid, illegal, or unenforceable provision.

#### 17. Responsibilities of the Parties

Neither party is an agent, servant, or employee of the other party and each party is responsible for its individual acts and deeds as well as the acts and deeds of its contractors, employees, representatives, and agents.

#### 18. Ownership of Documents

Upon completion or termination of this Agreement, all documents prepared by State shall remain the property of State. All data prepared under this Agreement shall be made available to State without restriction or limitation on their further use. All documents produced or approved or otherwise created by Local Government shall be transmitted to State in the form of photocopy reproduction on a monthly basis as required by State. The originals shall remain the property of Local Government.

#### 19. Document and Information Exchange

Local Government agrees to electronically deliver to State all general notes, specifications, contract provision requirements, and related documentation in a Microsoft Word or similar format. If requested by State, Local Government will use State's document template. Local Government shall also provide a detailed construction time estimate, including types of activities and month in which the activity will be completed, in the format required by State. This requirement applies whether Local Government creates the documents with its own forces or

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by hiring a consultant or professional provider. At the request of State, Local Government shall submit any information required by State in the format directed by State.

**20. Compliance with Laws**

The parties 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 manner affecting the performance of this agreement. When required, Local Government shall furnish State with satisfactory proof of this compliance.

**21. Sole Agreement**

This Agreement constitutes the sole and only agreement between the parties and supersedes any prior understandings or written or oral agreements respecting the Agreement's subject matter.

**22. Cost Principles**

In order to be reimbursed with federal funds, the parties shall comply with the Cost Principles established in 2 CFR Part 200 that specify that all reimbursed costs are allowable, reasonable, and allocable to Project.

**23. Procurement and Property Management Standards**

The parties to this Agreement shall adhere to the procurement and property management standards established in 2 CFR 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, and to the Texas Uniform Grant Management Standards. The State must pre-approve the Local Government's procurement procedures for purchases to be eligible for state or federal funds.

**24. Inspection of Books and Records**

The parties to this Agreement shall maintain all books, documents, papers, accounting records, and other documentation relating to costs incurred under this Agreement and shall make such materials available to the State, the Local Government, and, if federally funded, the FHWA and the U.S. Office of the Inspector General or their duly authorized representatives for review and inspection at its office during the Agreement period and for seven (7) years from the date of final reimbursement by FHWA under this Agreement or until any impending litigation or claims are resolved. Additionally, the State, the Local Government, and the FHWA and their duly authorized representatives shall have access to all the governmental records that are directly applicable to this Agreement for the purpose of making audits, examinations, excerpts, and transcriptions.

**25. Civil Rights Compliance**

The parties to this Agreement are responsible for the following:

- A. Compliance with Regulations: Both parties will comply with the Acts and the Regulations relative to Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation (USDOT), the Federal Highway Administration (FHWA), as they may be amended from time to time, which are herein incorporated by reference and made part of this Agreement.

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- B. Nondiscrimination: The Local Government, with regard to the work performed by it during the Agreement, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The Local Government will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the Agreement covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
- C. Solicitations for Subcontracts, Including Procurement of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the Local Government for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor or supplier will be notified by the Local Government of the Local Government's obligations under this Agreement and the Acts and Regulations relative to Nondiscrimination on the grounds of race, color, or national origin.
- D. Information and Reports: The Local Government will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and facilities as may be determined by the State or the FHWA to be pertinent to ascertain compliance with such Acts, Regulations or directives. Where any information required of the Local Government is in the exclusive possession of another who fails or refuses to furnish this information, the Local Government will so certify to the State or the FHWA, as appropriate, and will set forth what efforts it has made to obtain the information.
- E. Sanctions for Noncompliance: In the event of the Local Government's noncompliance with the Nondiscrimination provisions of this Agreement, the State will impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
1. withholding of payments to the Local Government under the Agreement until the Local Government complies and/or
  2. cancelling, terminating, or suspending of the Agreement, in whole or in part.
- F. Incorporation of Provisions: The Local Government will include the provisions of paragraphs (A) through (F) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The Local Government will take such action with respect to any subcontract or procurement as the State or the FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Local Government becomes involved in, or is threatened with, litigation with a subcontractor or supplier because of such direction, the Local Government may request the State to enter into such litigation to protect the interests of the State. In addition, the Local Government may request the United States to enter into such litigation to protect the interests of the United States.

## 26. Pertinent Non-Discrimination Authorities

During the performance of this Agreement, each party, for itself, its assignees, and successors in interest agree to comply with the following nondiscrimination statutes and authorities; including but not limited to:

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- A. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- B. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of federal or federal-aid programs and projects).
- C. Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), as amended, (prohibits discrimination on the basis of sex).
- D. Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.) as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27.
- E. The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age).
- F. Airport and Airway Improvement Act of 1982, (49 U.S.C. Chapter 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex).
- G. The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the federal-aid recipients, subrecipients and contractors, whether such programs or activities are federally funded or not).
- H. Titles II and III of the Americans with Disabilities Act, which prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. Parts 37 and 38.
- I. The Federal Aviation Administration’s Nondiscrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex).
- J. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations.
- K. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, the parties must take reasonable steps to ensure that LEP persons have meaningful access to the programs (70 Fed. Reg. at 74087 to 74100).
- L. Title IX of the Education Amendments of 1972, as amended, which prohibits the parties from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq.).

## 27. Disadvantaged Business Enterprise Program Requirements

- A. The parties shall comply with the Disadvantaged Business Enterprise (“DBE”) Program requirements established in 49 CFR Part 26.
- B. Local Government shall adopt, in its totality, State’s federally approved DBE program.
- C. Local Government shall set an appropriate DBE goal consistent with State’s DBE guidelines and in consideration of Local market, project size, and nature of the goods or

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services to be acquired. Local Government shall have final decision-making authority regarding the DBE goal and shall be responsible for documenting its actions.

- D. Local Government shall follow all other parts of State's DBE program referenced in TxDOT Form 2395, Memorandum of Understanding Regarding the Adoption of the Texas Department of Transportation's Federally-Approved Disadvantaged Business

Enterprise by Entity, and attachments found at web address:

[http://ftp.dot.state.tx.us/pub/txdot-info/bop/dbe/mou/mou\\_attachments.pdf](http://ftp.dot.state.tx.us/pub/txdot-info/bop/dbe/mou/mou_attachments.pdf).

- E. Local Government shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. Local Government shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure non-discrimination in award and administration of DOT-assisted contracts. State's DBE program, as required by 49 CFR Part 26 and as approved by DOT, is incorporated by reference in this Agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this Agreement. Upon notification to Local Government of its failure to carry out its approved program, State may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 USC 1001 and the Program Fraud Civil Remedies Act of 1986 (31 USC § 3801 et seq.).
- F. Each contract Local Government signs with a contractor (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance: "The contractor, sub-recipient, or sub-contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this agreement, which may result in the termination of this agreement or such other remedy as the recipient deems appropriate."

## 28. Debarment Certifications

The parties are prohibited from making any award at any tier to any party that is debarred or suspended or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549, "Debarment and Suspension." By executing this Agreement, Local Government certifies that it and its principals are not currently debarred, suspended, or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order

12549, and further certifies that it will not do business with any party, to include principals, that is currently debarred, suspended, or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549. The parties to this Agreement shall require any party to a contract, subcontract, or purchase order awarded under this Agreement to certify its eligibility to receive federal funds and, when requested by State, to furnish a copy of the certification.

If state funds are used, the parties are prohibited from making any award to any party that is debarred under the Texas Administrative Code, Title 34, Part 1, Chapter 20, Subchapter G, Rule §20.585 and the Texas Administrative Code, Title 43, Part 1, Chapter 9, Subchapter G.

## 29. Lobbying Certification

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In executing this Agreement, each signatory certifies to the best of that signatory's knowledge and belief, that:

- A. No federal appropriated funds have been paid or will be paid by or on behalf of the parties to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- B. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with federal contracts, grants, loans, or cooperative agreements, the signatory for Local Government shall complete and submit the federal Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- C. The parties shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and all sub-recipients shall certify and disclose accordingly. Submission of this certification is a prerequisite imposed by 31 USC §1352 for making or entering into this transaction. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

### 30. Federal Funding Accountability and Transparency Act Requirements

- A. Any recipient of funds under this agreement agrees to comply with the Federal Funding Accountability and Transparency Act (FFATA) and implementing regulations at 2 CFR Part 170, including Appendix A. This agreement is subject to the following award terms: <http://www.gpo.gov/fdsys/pkg/FR-2010-09-14/pdf/2010-22705.pdf> and <http://www.gpo.gov/fdsys/pkg/FR-2010-09-14/pdf/2010-22706.pdf>.
- B. Local Government agrees that it shall:
  1. Obtain and provide to State a System for Award Management (SAM) number (Federal Acquisition Regulation (FAR) Subpart 4.11) if this award provides more than \$25,000 in Federal funding. The SAM number may be obtained by visiting the SAM website whose address is: <https://sam.gov/SAM/pages/public/index.jsf>
  2. Obtain and provide to State a Data Universal Numbering System (DUNS) number, a unique nine-character number that allows the federal government to track the distribution of federal money. The DUNS number may be requested free of charge for all businesses and entities required to do so by visiting the Dun & Bradstreet on-line registration website <http://fedgov.dnb.com/webform>; and
  3. Report the total compensation and names of its top five executives to State if:
    - a. More than 80 percent of annual gross revenues are from the Federal government, and those revenues are greater than \$25,000,000; and
    - b. The compensation information is not already available through reporting to the U.S. Securities and Exchange Commission.



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**31. Single Audit Report**

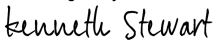
- A. The parties shall comply with the requirements of the Single Audit Act of 1984, P.L. 98-502, ensuring that the single audit report includes the coverage stipulated in 2 CFR Part 200.
- B. If threshold expenditures of \$750,000 or more are met during the fiscal year, the Local Government must submit a Single Audit Report and Management Letter (if applicable) to TxDOT's Compliance Division, 125 East 11th Street, Austin, TX 78701 or contact TxDOT's Compliance Division at [singleaudits@txdot.gov](mailto:singleaudits@txdot.gov).
- C. If expenditures are less than the threshold during Local Government's fiscal year, Local Government must submit a statement to TxDOT's Compliance Division as follows: *We did not meet the \$\_\_\_\_\_ expenditure threshold and therefore, are not required to have a single audit performed for FY \_\_\_\_\_.*
- D. For each year Project remains open for federal funding expenditures, Local Government will be responsible for filing a report or statement as described above. The required annual filing shall extend throughout the life of the agreement, unless otherwise amended or Project has been formally closed out and no charges have been incurred within the current fiscal year.

**32. Signatory Warranty**

Each signatory warrants that the signatory has necessary authority to execute this agreement on behalf of the entity represented.

Each party is signing this agreement on the date stated under that party's signature.

**THE STATE OF TEXAS**

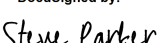
DocuSigned by:  
  
 F1CDA80FDB8C4B6...  
 Signature  
 Kenneth Stewart

\_\_\_\_\_  
 Typed or Printed Name  
 Director, Contract Services

\_\_\_\_\_  
 Typed or Printed Title  
 7/30/2024

\_\_\_\_\_  
 Date

**THE LOCAL GOVERNMENT**

DocuSigned by:  
  
 95B32FD70448433...  
 Signature  
 Steve Parker

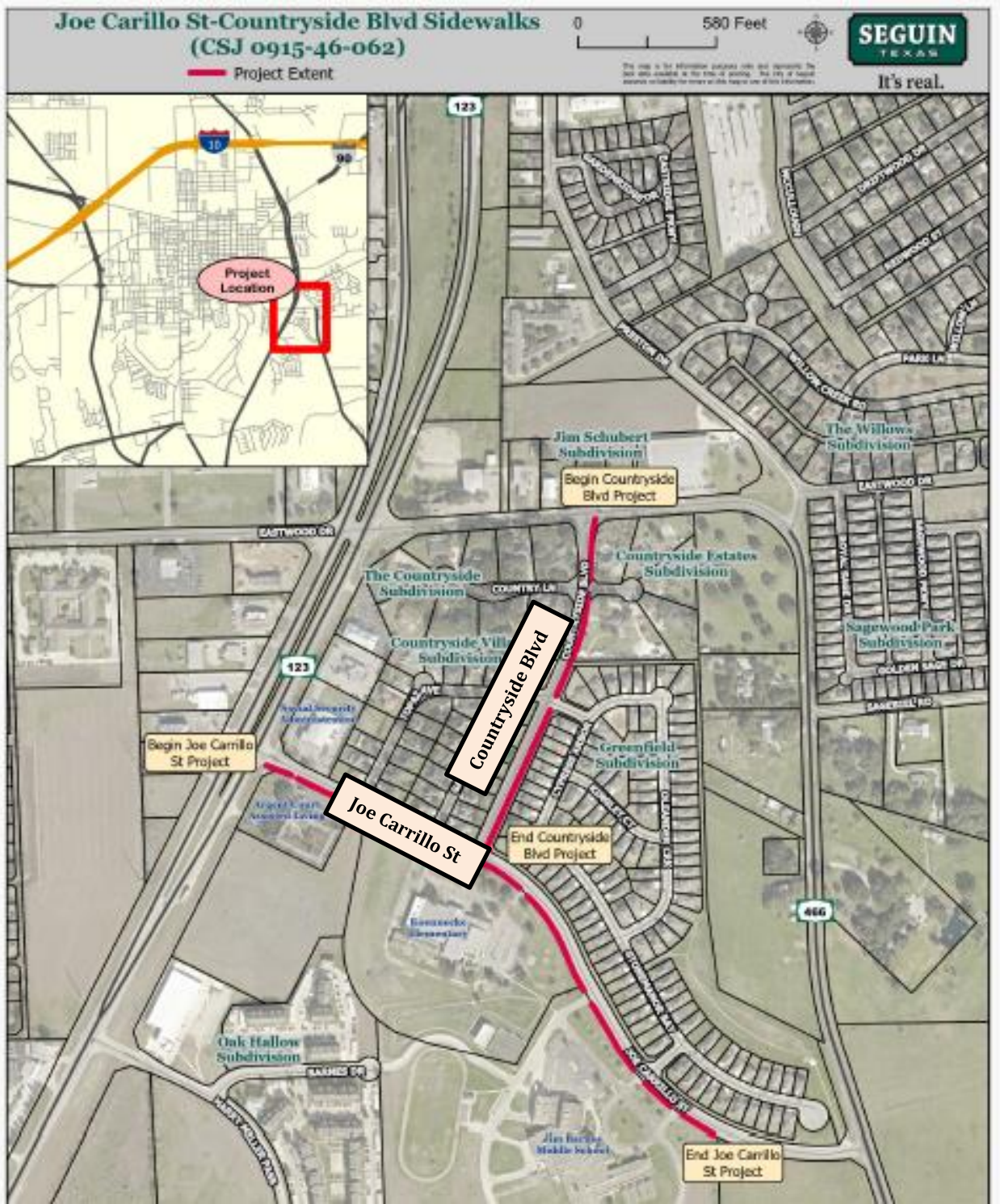
\_\_\_\_\_  
 Typed or Printed Name  
 City Manager

\_\_\_\_\_  
 Typed or Printed Title  
 7/30/2024

\_\_\_\_\_  
 Date

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ATTACHMENT A  
PROJECT LOCATION MAP



<b>TxDOT:</b>				<b>Federal Highway Administration:</b>	
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**ATTACHMENT B**  
**PROJECT ESTIMATE AND SOURCE OF FUNDS**  
 LG Performs PE Work or Hires Consultant / LG Lets Project for Construction

Work Performed by Local Government (“LG”)								
Description of Project Costs to be Incurred		Total Project Cost Estimate	Federal Participation Includes percentage for TDC apportionment on projects where applicable		State Participation Includes authorized EDC amounts		Local Government Participation Includes authorized TDC reduction	
			%	Cost	%	Cost	%	Cost
Planning/Maps/Education/Non-CST		\$0	0%	\$0	0%	\$0	0%	\$0
Preliminary Engineering		\$243,320	100%	\$243,320	0%	\$0	TDCs	48,664.00
Environmental Cost		\$0	0%	\$0	0%	\$0	0%	\$0
Right of Way		\$0	0%	\$0	0%	\$0	0%	\$0
Utilities		\$0	0%	\$0	0%	\$0	0%	\$0
Construction Cost	\$1,447,681							
Construction Engineering Cost	\$135,178							
Eligible In-Kind Contribution Value	\$							
Total Construction Value (sum of construction cost and in-kind value)								
Work by LG Subtotal		\$1,826,179	\$1,826,179		\$0		365,236	
Work Performed by the State (Local Participation paid up front by LG to TxDOT)								
Preliminary Engineering <sup>1</sup>		\$0	0%	\$0	0%	\$0	0%	\$0
Environmental Cost <sup>1</sup>		\$0	0%	\$0	0%	\$0	0%	\$0
Right of Way <sup>3</sup>		\$0	0%	\$0	0%	\$0	0%	\$0
Utilities <sup>2</sup>		\$0	0%	\$0	0%	\$0	0%	\$0
Construction Cost <sup>2</sup>	\$	\$0	0%	\$0	0%	\$0	0%	\$0
Eligible In-Kind Contribution Value	\$							

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Total Construction Value (sum of construction cost and in-kind value)							
<b>Work by State Subtotal</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Direct and Indirect State Costs Incurred for Review, Inspection, Administration &amp; Oversight</b>							
Description of Project Costs to be Incurred	Total Project Cost Estimate	Federal Participation Includes percentage for TDC apportionment on projects where applicable		State Participation Includes authorized EDC amount		Local Government (LG) Participation Includes authorized TDC reduction	
		%	Cost	%	Cost	%	Cost
Preliminary Engineering <sup>1</sup>	\$26,448	100%	\$26,448	0%	\$0	TDCs	5,290
Environmental Cost <sup>1</sup>	\$17,632	100%	\$17,632	0%	\$0	TDCs	3,526
Right of Way <sup>1</sup>	\$5,289	100%	\$5,289	0%	\$0	TDCs	1,058
Utilities <sup>1</sup>	\$3,526	100%	\$3,526	0%	\$0	TDCs	705
Construction <sup>2</sup>	\$123,422	100%	\$123,422	0%	\$0	TDCs	24,684
Direct State Costs Subtotal	\$176,317	100%	\$176,317	0%	\$0	TDCs	35,263
Indirect State Cost	\$72,811		\$0	100%	\$72,811		\$0
TOTAL PARTICIPATION	\$2,075,307		\$2,002,496		\$72,811		400,499
In-kind Contribution Credit Applied						0%	\$0
<b>TOTAL REMAINING PARTICIPATION AFTER IN-KIND CONTRIBUTION</b>							<b>TDCs</b>

- The estimated total participation by Local Government is \$0.
- The **Local Government** is responsible for 100% of overruns.
- Total estimated payment by Local Government to State is \$0.
- <sup>1</sup>Local Government's first payment of \$0 is due to State within 30 days from execution of this contract.
- <sup>2</sup>Local Government's second payment of \$0 is due to State within 60 days prior to the Construction contract being advertised for bids.
- <sup>3</sup>If ROW is to be acquired by State, Local Government's share of property cost will be due prior to acquisition.

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- The local match must be 20% or greater and may include State contributions, eligible in-kind contributions, EDC adjustments, or TDCs if authorized as part of project selection.
- Transportation Development Credits (TDC) are being utilized in place of the Local Government's participation in the amount of 400,499.
- This is an estimate; the final amount of Local Government participation will be based on actual costs.
- Maximum federal TASA funds available for Project are \$2,002,496.

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**ATTACHMENT C**  
**RESOLUTION OF LOCAL GOVERNMENT**



TxDOT:				Federal Highway Administration:	
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CITY OF SEGUIN  
STATE OF TEXAS

RESOLUTION NO. 2024R-133

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEGUIN TEXAS, AUTHORIZING APPROVAL OF THE ADVANCE FUNDING AGREEMENT OF A PROJECT FOR FUNDING THE TRANSPORTATION ALTERNATIVES SET-ASIDE (TASA) GRANT OFF-SYSTEM IMPROVEMENT PROGRAM; AND DECLARING AN EFFECTIVE DATE

WHEREAS, the City of Seguin is a member of the Alamo Area Metropolitan Planning Organization (the “AAMPO”); and

WHEREAS, in November 2023, the City was notified by the AAMPO that the Joe Carrillo St./Countryside Blvd Sidewalk Project (the “Project”) was selected for funding; and

WHEREAS, the Texas Department of Transportation (“TxDOT”) requires that the City enter into a Advanced Funding Agreement (“AFA”); and

WHEREAS, federal law establishes federally funded programs for transportation improvements to implement its public purposes, and

WHEREAS, the Texas Transportation Code, Section 201.103 establishes that the State shall design, construct and operate a system of highways in cooperation with local governments, and Section 222.052 authorizes the Texas Transportation Commission to accept contributions from political subdivisions for development and construction of public roads and the state highway system within the political subdivision, and

WHEREAS, Federal law, 23 USC §134 and 49 USC §5303, requires that State and Metropolitan Planning Organizations (MPOs) develop transportation plans and programs for urbanized areas of Texas, and

WHEREAS, Federal and state laws require local governments to meet certain contract standards relating to the management and administration of State and federal funds, and

WHEREAS, the Texas Transportation Commission has codified 43 TAC, Rules 15.50-15.56 that describe federal, state, and local responsibilities for cost participation in highway improvement and other transportation projects, and

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**WHEREAS**, the rules and procedures for the Transportation Alternatives Set-Aside Program (TASA) are established in 23 USC §133(h), and 43 Texas Administrative Code, Part 1, Chapter 11, Subchapter G, §§11.400 – 11.418, and

**WHEREAS**, the Local Government prepared and submitted to the State or Metropolitan Planning Organization (MPO) a project nomination package for TASA funding consideration, which is briefly described as Joe Carrillo St/Countryside Blvd (Project), and

**WHEREAS**, The City, a Local Government, is authorized to enter into an agreement with TxDOT, and

**WHEREAS**, the Texas Transportation Commission (Commission) passed Minute Order Number 116575 (MO) dated October 26, 2023 awarding funding for TASA projects in the TASA Program Call of the State, including Project, and

**WHEREAS**, the governing body of the Local Government has approved entering into this Agreement by resolution or ordinance dated **June 4, 2024**, which is attached to and made a part of this Agreement as Attachment C, Resolution or Ordinance. A map showing the Project location appears in Attachment A, Project Location Map, which is attached to and made a part of this Agreement, a

**NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Seguin, Texas:**

**Section 1.** The City Council of the City of Seguin authorizes the City Manager, Steve Parker, to execute the Advanced Funding Agreement (AFA).

**Section 2.** The City Council directs and designates the City Manager as the City’s Chief Executive Office and Authorized Representative to act in all matters in connection with the City’s Participation in the TIP, TASA & STBG Programs.

**Section 3.** The City is responsible for payment overruns above Grant funding,

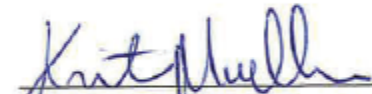
**Section 4.** This Resolution shall be in full force and effect immediately from and after its passage.



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Approved and Adopted this 4<sup>th</sup> Day of June, 2024.

ATTEST:

  
\_\_\_\_\_  
Kristin Mueller  
City Secretary

  
\_\_\_\_\_  
DONNA DODGEN  
MAYOR

