

PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement ("Agreement") by and between Tarrant County (County) and Terracon Consultants, Inc. (Consultant), located at 8901 John W Carpenter Fwy Ste 100 Dallas, TX 75247-4547 becomes effective on the date of approval in Tarrant County Commissioners Court.

SCOPE OF SERVICES

Consultant agrees to perform the services set forth in the attached Scope of Services in a timely and professional manner, consistent with industry and professional standards, and in accordance with all applicable laws and the terms of this Agreement. Consultant warrants that all engineering services to be performed under this contract will be performed by a licensed engineer or licensed engineers with the professional skill and care ordinarily provided by competent engineers practicing in Texas and under the same or similar circumstances and professional license and that such services will be performed as expeditiously as is prudent considering the ordinary professional skill and care of said engineer or engineers. If any services, functions or responsibilities not specifically described in the Scope of Services are required for the proper performance and provision of these services, they shall be deemed to be included with the Scope of Services.

ACCESSIBILITY OF DOCUMENTS

Consultant agrees that documents prepared by Consultant in the performance of the Scope of Services shown in the Scope of Services may be made available to the public, including land developers, upon request.

TERM AND RENEWAL OPTIONS

Upon approval of this contract by the Tarrant County Commissioners Court, Consultant is authorized to begin the provision of services as described in the attached Scope of Services. Consultant agrees to complete the services requested by the County in accordance with the schedule shown in the attached Project Schedule.

PAYMENT AND INVOICING

Compensation to Consultant for the services described in the attached Scope of Services shall not exceed \$8,500 in the hourly rates as shown on the attached Fee Schedule for the services under this Agreement, upon approval by the County.

Consultant is to advise the County of additional services that may be required to complete any services requested under this Agreement prior to those additional services being performed that are not part of this Agreement, and must obtain prior approval, in writing, by the County before those additional services are performed and invoiced.

- a. If in the execution of services, the County may request Consultant to remove a service, prior to Consultant's performance of that service. Consultant agrees that the County will not be held responsible for costs associated with those services that were removed.
- b. Payments will be made monthly in arrears, on a net 30-day basis. The fee is to be inclusive of all travel costs.
- c. Invoices are to be detailed and reference the fees as shown in Fee Schedule. A summary of the work performed during the invoiced period should accompany the invoice submittal.
- d. Submit invoices to: Tarrant County Auditor's Office, Attention: Accounts Payable, 100 E. Weatherford St., Suite 506, Fort Worth, Texas 76196, phone: 817-884-1205, or email to: SAP-Invoices@tarrantcountytexas.gov and mcmoreno2@tarrantcountytexas.gov. Invoices should reference the Purchase Order number.

COMPLIANCE WITH LAWS

1. In providing the services required by this Agreement, Consultant must observe and comply with all applicable federal, state, and local statutes, ordinances, rules, and regulations, including, without limitation, workers' compensation laws, minimum and maximum salary and wage statutes and regulations, and non-discrimination laws and regulations. Consultant shall be responsible for ensuring its compliance with any laws and regulations applicable to its business, including maintaining any necessary licenses and permits.

2. **Chapters 2271, 2252, and 2274 Texas Government Code Verification.**

(a) *Boycott of Israel Prohibited.* In compliance with Section [2271.001](#) et seq. of the Texas Government Code, Consultant verifies that neither it nor any of its affiliates currently boycott Israel and neither it nor any of its affiliates will boycott Israel during the term of this Agreement. "Boycott Israel" is defined in Section [808.001\(1\)](#) of the Texas Government Code.

(b) *Scrutinized Business Operations Prohibited.* In compliance with Section [2252.151](#) et seq. of the Texas Government Code, Consultant warrants and represents that: (1) neither Consultant nor any of its affiliates engages in scrutinized business operations in Sudan; (2) neither Consultant nor any of its affiliates engages in scrutinized business operations in Iran; and (3) neither Consultant nor any of its affiliates engages in scrutinized business operations with designated foreign terrorist organizations. "Scrutinized business operations in Sudan" is defined in Section [2270.0052](#) of the Texas Government Code. "Scrutinized business operations in Iran" is defined in Section [2270.0102](#) of the Texas Government Code. "Scrutinized business operations with designated foreign terrorist organizations" is defined in Section [2270.0152](#) of the Texas Government Code. Consultant further represents and warrants that neither Consultant nor any of its affiliates appears on any of the Texas Comptroller's [Scrutinized Companies Lists](#).

(c) *Boycott of Certain Energy Companies Prohibited.* In compliance with Section [2276.002](#) of the Texas Government Code (added by 87th Legislature, S.B. 13), Consultant verifies that neither it nor any of its affiliates currently boycott energy companies and neither it nor any of its affiliates will boycott energy companies during the term of this Agreement. "Boycott energy company" is defined in Section [809.001\(1\)](#) (added by 87th Legislature, S.B. 13) and means, without an ordinary business purpose, refusing to deal with, terminating business activities with,

or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations with a company because the company: (A) engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy and does not commit or pledge to meet environmental standards beyond applicable federal and state law; or (B) does business with a company described by subsection (A).

(d) *Discrimination against Firearm Entities or Firearm Trade Associations Prohibited.* In compliance with Section [2274.002](#) of the Texas Government Code (added by 87th Legislature, S.B. 19), Consultant verifies that neither it nor any of its affiliates have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and neither it nor any of its affiliates will discriminate during the term of the Agreement against a firearm entity or firearm trade association. “Discriminate against a firearm entity or firearm trade association” is defined in Section [2274.001\(3\)](#) (added by 87th Legislature, S.B. 19) and means, with respect to the entity or association, to: (i) refuse to engage in the trade of any goods or services with the entity or association based solely on its status as a firearm entity or firearm trade association; (ii) refrain from continuing an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; or (iii) terminate an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; the term *does not include*: (i) the established policies of a merchant, retail seller, or platform that restrict or prohibit the listing or selling of ammunition, firearms, or firearm accessories; and (ii) a company’s refusal to engage in the trade of any goods or services, decision to refrain from continuing an existing business relationship, or decision to terminate an existing business relationship: (aa) to comply with federal, state, or local law, policy, or regulations or a directive by a regulatory agency; or (bb) for any traditional business reason that is specific to the customer or potential customer and not based solely on an entity’s or association’s status as a firearm entity or firearm trade association.

3. **Legal Compliance.** Each party shall comply with the provisions of all applicable laws relating to the performance of its obligations under this Agreement. Each party is responsible for obtaining its own legal advice concerning its compliance with applicable laws.

4. **Prohibition of Political Activity.** None of the funds provided under this Agreement shall be used for influencing the outcome of any election, or the passage or defeat of any legislative measure. This prohibition shall not be construed to prevent the Parties’ compliance with the Texas Public Information Act. No funds provided under this Agreement may be used directly or indirectly to hire employees or in any other way fund or support candidates for the legislative, executive, or judicial branches of government, the State of Texas, or the government of the United States. None of the funds provided under this Agreement shall be paid to any official or employee who violates any of the provisions of this Section.

5. **Form 1295 Certificate of Interested Parties.** Consultant acknowledges and agrees that it has fully, accurately, and completely disclosed all interested parties in the Form 1295 electronically filed with the Texas Ethics Commission, at <https://www.ethics.state.tx.us/filinginfo/1295/>, as required by law, and that the attached signed copy attached as **Exhibit G** is a full and true copy of said filed form.

6. **Conflict of Interest.** Consultant assures that it is in compliance with the requirements of [Chapter 176](#) of the Texas Local Government Code and has filed or will promptly file the Conflict of Interest Questionnaire (CIQ Form) with the Tarrant County Clerk no later than the 7th business day after the date Consultant becomes aware of facts that require the form to be filed. Completed forms are to be sent to:

Tarrant County Transportation Services
Attn: Joseph Jackson, Assistant Director
100 East Weatherford Street, Room 401
Fort Worth, Texas 76196

INSURANCE REQUIREMENTS

Consultant shall take out, pay for and maintain always during the prosecution of the work under the contract, the following forms of insurance, in carriers acceptable to and approved by Tarrant County:

- a. Worker's Compensation/Employer's Liability
 1. Worker's Compensation – statutory
 2. Employer's Liability - \$500,000
- b. Commercial General Liability:
 1. Bodily injury/Personal injury/Property damage - \$1,000,000 per occurrence/\$2,000,000 aggregate
- c. Auto Liability:
 1. Combined Single Limit (CSL) - \$500,000 per occurrence
- d. Contractual Liability – same limits as above
- e. Professional Liability Insurance - \$1,000,000 each claim with minimum \$2,000,000 aggregate

FINANCIAL RESPONSIBILITY

Consultant is responsible for its incurred expenses in performing this contract unless otherwise noted. To the extent permitted by the Constitution and the laws of the State of Texas, Consultant indemnifies and holds harmless the County against any and all claims, lawsuits, settlements, judgments, costs, penalties and expenses, including attorney's fees, for damage caused by or resulting from an act of negligence, intentional tort, intellectual property infringement, or failure to pay a subcontractor or supplier committed by the Consultant, its agent, or another entity over which the Consultant exercises control.

AGENCY-INDEPENDENT CONTRACTOR

Neither Consultant nor any employee thereof is an agent of the County and neither the County nor any employee thereof is an agent of Consultant. This agreement does not and shall not be construed to entitle either party or any of their representative employees, if applicable, to any benefits, privilege, or other amenities of employment of the other part.

ASSIGNMENT

Neither party may assign this contract.

THIRD PARTY BENEFICIARY EXCLUDED

This party does not incur to the benefit of any specific third party. The parties to this contract do not consent to the waiver of sovereign or government immunity under Texas state or federal law to the extent either party may have that immunity under law.

ENTIRE AGREEMENT

The Contract documents consist of the following:

- This Agreement
- Request for Qualifications 2021-088 Bid Documents and Consultant Response
- Consultant Proposal
- Any exhibits attached hereto, conditions of the contract (special, supplementary and other conditions), all addenda issued prior to execution of this Agreement and all modifications issued subsequent thereto.

To the extent of an ambiguity among the various documents, the Request for Qualifications 2021-088 will prevail. These documents collectively form the Contract, and all are fully a part of the Contract as if attached to this Agreement or repeated herein.

This Agreement may not be modified, altered, changed or amended in any respect, unless in writing and signed by both parties. For avoidance of doubt, this Agreement may not be modified orally.

The law of the State of Texas governs this contract. Venue for any action regarding this contract must be in the district courts of Tarrant County, Texas.

This agreement is effective upon the date of approval in Tarrant County Commissioners Court.

TERMINATION

Either party may terminate this contract by:

- a. Providing written notice to the other party at least thirty (30) days prior to the date of termination;
- b. Providing in the written notice the date of termination; and
- c. Sending the written notice by certified mail return receipt requested to the party at its address.

NOTICES

Tarrant County

Maria C. Moreno
Tarrant County Transportation Services
100 E. Weatherford, Room 401
Fort Worth, Texas 76196

Terracon Consultants, Inc.

Christian W. New
8901 John W Carpenter Fwy Ste 100
Dallas, TX 75247-4547

TARRANT COUNTY

Terracon Consultants, Inc.

Tim O'Hare
County Judge

Christian W. New/
Senior Environmental Engineer

REVIEWED AS TO FORM:

Criminal District Attorney's Office*

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

CERTIFICATION OF AVAILABLE FUNDS IN THE AMOUNT OF \$8,500:

Auditor's Office