

ENGINEERING SERVICES CONTRACT

STATE OF TEXAS

COUNTY OF NUECES

THIS CONTRACT FOR ENGINEERING SERVICES is made by and between the County of Nueces, hereinafter called "County" and LNV, Inc. hereinafter called "Engineer" for the purpose of contracting for engineering services.

WITNESSETH

WHEREAS, Government Code, Chapter 2254, Subchapter A, "Professional Services Procurement Act" provides for the procurement of professional services of engineers; and

WHEREAS, the County desires to contract for engineering services described as follows:

Professional Engineering Services necessary for the development of the Surface Water Lines and Connections in Cindy Park Colonia. Nueces County has recently received a contract award from the Texas Department of Agriculture Office of Rural Affairs (TDA), Contract No. 7214085, for water system improvements.

NOW, THEREFORE, the County and the Engineer, in consideration of the mutual covenants and agreements herein contained, do hereby mutually agree as follows:

AGREEMENT

ARTICLE 1

SCOPE OF SERVICES TO BE PROVIDED BY COUNTY

The County will furnish items and perform those services for fulfillment of the contract as identified in Attachment A – Services To Be Provided By The County, attached hereto and made a part thereof this contract.

ARTICLE 2

SCOPE OF SERVICES TO BE PROVIDED BY ENGINEER

The Engineer shall perform those engineering services for the fulfillment of the contract as identified in Attachment B – Services To Be Provided By The Engineer, attached hereto and made a part thereof this contract.

The Engineer shall prepare a schedule of work, identified as Attachment C1 – Work Schedule, to include Attachment C2 – Community Development Fund, Special Conditions for Contract No. 7214085, attached hereto and made a part thereof this contract. The work schedule shall contain a complete schedule by task such that the Engineer’s Scope of Services under this contract can be accomplished within the specified time and contract cost. Attachment C – Work Schedule shall identify the task, the total maximum dollar amount payable for each task, and time allotted to complete the job by date or working days. Attachment D – Payment Schedule shall identify the hourly rates for each job title, total number of hours for each job title, and the maximum dollar amount payable for each job title.

Unless specifically excluded in Attachment B – Services To Be Provided By The Engineer, it shall be the Engineer’s responsibility to prepare, submit, or arrange for any and all permits, approvals, or inspections required for the work. The permits, approvals or inspections shall include, but not be limited to, the following:

1. Building permits
2. Floodplain development permits
3. Access driveway permits
4. Utility permits
5. Americans with disabilities submissions and approvals
6. Asbestos inspections

ARTICLE 3 CONTRACT PERIOD

After execution of this contract, the Engineer shall not proceed with the work until authorized in writing by the County to proceed, as provided in Article 5 – Work Authorizations. This contract shall terminate at the close of business on November 23, 2016, unless extended by supplement agreement duly executed by the Engineer and the County prior to the date of termination, as provided in Article 10 – Supplemental Agreements, or otherwise terminated, as provided in Article 19 – Termination. Any work performed or cost incurred after the date of termination shall be ineligible for reimbursement.

ARTICLE 4 COMPENSATION AND METHOD OF PAYMENT

The maximum amount payable under this contract is \$ 60,000.00 , unless modified as provided in Article 10 – Supplemental Agreements. Payment to (person/firm) shall be based on satisfactory completion of identified milestones established in Attachment D – Payment Schedule.

The Engineer shall prepare and submit to the County, no more frequently than once per month, an invoice and a progress report stating the percent completion of the work

accomplished during the billing period. The invoice and progress report shall contain sufficient detail such that the billing can be reviewed for compliance with both the work schedule and fee schedule.

The County reserves the right to withhold payment pending verification of satisfactory work.

The County assumes no liability for work performed or costs incurred prior to the date authorized by the County to begin work, during periods when work is suspended, or subsequent to the contract completion date.

ARTICLE 5 WORK AUTHORIZATIONS

The County will issue work authorizations, in the form identified and attached hereto as Attachment E – Work Authorization, to authorize the Engineer to perform one or more tasks. 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 County's or Engineer's responsibilities and obligations established in this contract. The work authorization will be issued by the Nueces County Director of Public Works. The executed work authorization(s) shall become a part of this contract.

Upon satisfactory completion of the work authorization, the Engineer shall submit to the County for review and acceptance the deliverables as specified in the executed work authorization.

Work included in a work authorization shall not begin until the County and the Engineer have signed the work authorization. All work must be completed on or before the completion date specified in the work authorization. The Engineer shall promptly notify the County of any event which will affect completion of the work authorization.

ARTICLE 6 PROGRESS

The Engineer shall, from time to time during the progress of the work, confer with the County. The Engineer shall prepare and present such information as may be pertinent and necessary, or as may be requested by the County, in order to evaluate features of the work. Upon request by the County, the Engineer shall make presentations to the Commissioners Court.

At the request of the County or the Engineer, conferences shall be held at the Engineer's office, the County's office, or at other locations designated by the County. These conferences shall also include an evaluation of the Engineer's services and work when requested by the County.

Should the County determine that the progress in production of the work does not satisfy the work schedule, the County will review the work schedule with the Engineer to determine corrective action needed.

The Engineer shall promptly advise the County in writing of events which have a significant impact upon the progress of work, including:

- (1) problems, delays, or adverse conditions which will materially affect the ability to attain contract objectives, prevent the meeting of time schedules and goals, or preclude the attainment of project work units by established time periods; this disclosure will be accompanied by a statement of the action taken, or contemplated, and any County assistance needed to resolve the situation; and
- (2) favorable developments or events which would enable meeting the work schedule goals sooner than anticipated.

ARTICLE 7 SUSPENSION

The County may suspend the work, but not terminate the contract, by giving written notice a minimum of thirty (30) calendar days prior to the date of suspension. The thirty (30) day notice may be waived if approved in writing by both parties.

The work will be reinstated and resumed in full force and effect within sixty (60) calendar days of receipt of written notice from the County to resume the work. The sixty (60) day notice may be waived if approved in writing by both parties.

If the County suspends the work, the contract period, as determined in Article 3 – Contract Period, is not affected and the contract will terminate on the date specified unless the contract is amended as provided in Article 10 – Supplemental Agreements.

ARTICLE 8 ADDITIONAL WORK

If the Engineer determines that any work it has been directed to perform is beyond the scope of this agreement and constitutes extra work, it shall promptly notify the County in writing. In the event the County determines that such work constitutes extra work and exceeds the maximum amount payable, the County shall so advise the Engineer and a supplemental agreement may be executed, as provided in Article 10 – Supplemental Agreements.

The Engineer shall not perform any additional work or incur any additional costs prior to the execution, by both parties, of a supplemental agreement. The County shall not be responsible for actions by the Engineer or any costs incurred by the Engineer relating to additional work not directly associated with the performance of the work authorized in this contract or as amended.

**ARTICLE 9
CHANGES IN WORK**

If the County finds it necessary to request changes to previously satisfactorily completed work or parts thereof which involve changes to the original scope of services or character of work under the contract, the Engineer shall make such revisions if requested and as directed by the County. This will be considered additional work and paid for as specified under Article 8 – Additional Work.

The Engineer shall make such revisions to the work to correct errors appearing therein, when required to do so by the County. No additional compensation will be paid for the correction of errors.

**ARTICLE 10
SUPPLEMENTAL AGREEMENTS**

The terms of this contract may be modified by supplemental agreement if the County determines that there has been a significant change in the scope, complexity, or character of the service to be performed, or the duration of the work. Additional compensation, if appropriate, shall be identified as provided in Article 4 – Compensation and Method of Payment.

Any supplement agreement must be executed by both parties within the contract period specified in Article 3 – Contract Period.

No claim for extra work done or materials furnished shall be made by the Engineer until full execution of the supplemental agreement and authorization to proceed is issued by the County. The County reserves the right to withhold payment pending verification of satisfactory work performed.

**ARTICLE 11
PUBLIC INFORMATION ACT**

All data, basic sketches, charts, calculations, plans, specifications, and other documents created or collected under the terms of this contract are the exclusive property of the County and shall be furnished to the County upon request. All documents prepared by the Engineer and all documents furnished to the Engineer by the County shall be delivered to the County upon completion or termination of this contract. The Engineer, at its own expense, may retain copies of such documents or any other data which it has furnished the County under this contract. Release of information will be in accordance with the Texas Public Information Act.

**ARTICLE 12
PERSONNEL, EQUIPMENT AND MATERIAL**

The Engineer shall furnish and maintain, at its own expense, office space for the performance of all services, and adequate and sufficient personnel and equipment to perform the services as required. All employees of the Engineer shall have such knowledge and experience as will enable them to perform the duties assigned to them.

The County may instruct the Engineer to remove any employee from association with the work authorized in this contract if, in the sole opinion of the County, the work of the employee does not comply with the terms of this contract or if the conduct of the employee is detrimental to the work.

The Engineer certifies that it presently has adequate qualified personnel in its employment for performance of the services required under this contract. The Engineer may not change the project manager without prior consent of the County.

**ARTICLE 13
SUBCONTRACTING**

The Engineer shall not assign, subcontract or transfer any portion of the work under this contract without prior written approval of the County. All subcontracts shall include the provisions required in this contract and shall be approved as to form, in writing, by the County prior to work being performed under the subcontract.

**ARTICLE 14
EVALUATION OF WORK**

The County and its authorized representatives shall have the right at all reasonable times to review or otherwise evaluate the work performed or being performed hereunder and the premises in which it is being performed. If a review or evaluation is being made on the premises of the Engineer or a subcontractor, the Engineer shall provide and require its subcontractor to provide all reasonable facilities and assistance for the safety and convenience of the County representatives in the performance of their duties. If funds by other agencies or entities are to be used for payment of the services under this contract or for any construction project as a consequence of this contract, the Engineer's services and work may be subject to periodic review and approval by other agencies or entities, including city, county, state, and/or federal agencies.

**ARTICLE 15
SUBMISSION OF REPORTS**

All applicable study reports shall be submitted in preliminary form for review by the County before a final report is issued. The County's comments on the Engineer's preliminary report shall be addressed in the final report.

ARTICLE 16
SUBMISSION OF PLANS AND SPECIFICATIONS

Unless otherwise directed, preliminary plans and any supporting documentation submitted for review shall be in triplicate.

The submission of plans and specifications for letting shall consist of two, original paper copies of all documents, along with a compact disc (CD).

Plan Sheet size shall be 24" X 36", unless otherwise directed.

ARTICLE 17
COMPUTER DOCUMENTS AND INFORMATION EXCHANGE

All computer files must be compatible with the County's computer systems without conversion or modifications and must plot consistent with any reproducible plots submitted.

All plots and graphics media provided by the Engineer shall be delivered to the County. Final payment for the work associated with this contract will not be made until the files furnished by the Engineer have been demonstrated to be usable in the required formats.

ARTICLE 18
VIOLATION OF CONTRACT TERMS / BREACH OF CONTRACT

Violation of the contract terms or breach of contract by the Engineer shall be grounds for termination of the contract and any increased cost arising from the Engineer's default, breach of contract, or violation of contract terms shall be paid by the Engineer. This agreement shall not be considered as specifying the exclusive remedy for any default, but all remedies existing at law and in equity may be availed of by either party and shall be cumulative.

ARTICLE 19
TERMINATION

This contract shall terminate at the close of business on November 23, 2016, unless extended as provided in Article 10 – Supplemental Agreements.

This contract may be terminated before the stated termination date by any of the following conditions:

1. By mutual agreement and consent, in writing, of both parties;

2. By the County, by notice in writing to the Engineer as a consequence of failure by the Engineer to perform the services set forth herein in a satisfactory manner;
3. By either party, upon the failure of the other party to fulfill its obligations as set forth herein;
4. By the County, for reasons of its own and not subject to the mutual consent of the Engineer upon not less than thirty (30) calendar days written notice to the Engineer; and
5. By written notice from the County upon satisfactory completion of all services and obligations described herein.

Should the County terminate this contract as herein provided, no fees other than fees due and payable at the time of termination shall thereafter be paid to the Engineer. In determining the value of the work performed by the Engineer prior to termination the County shall be the sole judge. Compensation for work at termination will be based on a percentage of the work completed at that time. Should the County terminate this contract under Item 4 of the above paragraph, the amount charged during the thirty (30) calendar day notice period shall not exceed the amount charged during the preceding thirty (30) calendar days.

If the Engineer defaults in the performance of this contract or if the County terminates this contract for fault on the part of the Engineer, the County will give consideration to the actual costs incurred by the Engineer in performing the work to the date of default, the amount of work which was satisfactorily completed to the date of default, the value of the work which is usable to the County, the cost to the County of employing another firm to complete the work required and the time required to do so, and other factors which affect the value to the County of the work 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 County and the Engineer under this contract except the obligations set forth in Articles 11, 14, 19, 20, 21 and 23 of this contract. If the termination of this contract is due to the failure of the Engineer to fulfill its contract obligations, the County may take over the project and prosecute the work to completion. In such case, the Engineer shall be liable to the County for any additional cost occasioned to the County.

ARTICLE 20 COMPLIANCE WITH LAWS

The 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, worker's compensation laws, minimum salary and wage statues and regulations, and licensing laws and regulations. When required, the Engineer shall furnish the County with satisfactory proof of its compliance.

**ARTICLE 21
INDEMNIFICATION**

THE ENGINEER SHALL SAVE HARMLESS THE COUNTY AND ITS OFFICERS AND EMPLOYEES FROM ALL CLAIMS AND LIABILITY DUE TO ACTIVITIES OF THE ENGINEER, ITS AGENTS, OR EMPLOYEES PERFORMED UNDER THIS CONTRACT AND WHICH ARE CAUSED BY OR RESULT FROM ERROR, OMISSION, OR NEGLIGENT ACT OF THE ENGINEER OR OF ANY PERSON EMPLOYED BY THE ENGINEER. THE ENGINEER SHALL ALSO SAVE HARMLESS THE COUNTY FROM ANY AND ALL EXPENSE, INCLUDING, BUT NOT LIMITED TO, ATTORNEY FEES WHICH MAY BE INCURRED BY THE COUNTY IN LITIGATION OR OTHERWISE RESISTING SAID CLAIM OR LIABILITIES WHICH MAY BE IMPOSED ON THE COUNTY AS A RESULT OF SUCH ERROR, OMISSION, OR NEGLIGENT ACTIVITY BY THE ENGINEER, ITS AGENTS, OR EMPLOYEES.

**ARTICLE 22
ENGINEER'S RESPONSIBILITY**

The Engineer shall be responsible for the accuracy of its work and shall promptly make necessary revisions or corrections resulting from its errors, omissions, or negligent acts without compensation. The Engineer will not be relieved of the responsibility for subsequent correction of any such errors or omissions or for clarification of any ambiguities until after the construction phase of the project has been completed.

**ARTICLE 23
ENGINEER'S SEAL**

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

**ARTICLE 24
RETENTION, AVAILABILITY OF RECORDS AND AUDIT REQUIREMENTS**

The Engineer shall maintain all books, documents, papers, accounting records, and other evidence pertaining to cost incurred and shall make such materials available at its office during the contract period and for four (4) years from the date of final payment under this contract or until pending litigation has been completely and fully resolved, whichever occurs last. The County or any of its duly authorized representatives shall have access during normal business hours to any and all books, documents, papers, and records of the Engineer which

are directly pertinent to this contract for the purpose of making audits, examinations, excerpts, transcriptions, and for checking the amount of work performed by the Engineer.

ARTICLE 25 INSURANCE

The Engineer shall obtain and maintain insurance in the limits of liability for each of the types of insurance coverage identified as follows:

1. Workers' Compensation, endorsed with a waiver of subrogation in favor of Nueces County in the amount of the statutory obligations imposed under the Texas Workers' Compensation Law ("Statutory Texas").
2. Commercial General Liability, endorsed with the County as an additional insured and endorsed with a waiver of subrogation in favor of Nueces County, in limits of liability not less than one million dollars (\$1,000,000) combined single limit each occurrence and in the aggregate for bodily injury and property damage.
3. Texas Business Automobile Policy, endorsed with the County as an additional insured and endorsed with a waiver of subrogation in favor of Nueces County, in limits of liability not less than two hundred fifty thousand dollars (\$250,000) each person for bodily injury, five hundred thousand dollars (\$500,000) each occurrence for bodily injury, and one hundred thousand dollars (\$100,000) each occurrence for property damage.
4. Professional Liability in limits of one million dollars (\$1,000,000) each occurrence and in the aggregate.

The work shall not be commenced by Engineer until after policy, or policies evidencing the insurance coverage herein required, or certificates of such insurance, providing that the insurer shall give County thirty (30) days written notice prior to cancellation, material revision or intention not to renew, have been submitted to the County. In the event the Insurer refuses to provide the County with notice as detailed, the Engineer agrees to provide notice in writing immediately, and shall suspend all work until insurance is restored and proof, in a form acceptable to the County, is provided.

The Engineer, at his/her expense, shall purchase and maintain in force at all times during the term of this Contract the insurance with limits not less than indicated above. The Engineer will be considered in breach of contract should the Engineer fail to maintain the required insurance coverage during the contract period of this contract. The termination of this contract resulting from failure to maintain the required insurance will be carried out in accordance with Article 19-Termination.

**ARTICLE 26
SUCCESSORS AND ASSIGNS**

The Engineer and the County do hereby bind themselves, their successors, executors, administrators, and assigns to each other party of this agreement and to the successors, executors, administrators, and assigns of such other party in respect to all covenants of this contract.

The Engineer shall not assign, subcontract, or transfer its interest in this contract without the prior written consent of the County.

**ARTICLE 27
SEVERABILITY**

In the event any one or more of the provisions contained in this contract, for any reason, shall be held to be invalid, illegal, or unenforceable in any respect, 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 28
CONTRIBUTIONS**

It is expressly understood by the County and the Engineer, that from the award date of the contract to one year after termination or expiration of contract term, it is prohibited for any county official or employee thereof, to receive gifts described by Section 5.02 of the County Personnel or Civil Service Rules, and/or campaign or political contributions regardless of amount from the Engineer or principal owners of said Engineering firm. County Official is defined as those individuals described as county and precinct officers in Subchapter B of Chapter 152 of the Local Government Code. The Engineer is furthermore prohibited from making political campaign or personal contributions to candidates for county and precinct office from the date of award of contract to one year after termination or expiration of contract term. It is also prohibited for the Engineer to contribute to employee associations or for the benefit of groups of employees.

**ARTICLE 29
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 address:

COUNTY

ENGINEER

Nueces County Judge

LNV, Inc.

901 Leopard, Rm. 303

801 Navigation Blvd., Suite 300

Corpus Christi, Texas 78401

Corpus Christi, Texas 78408

**ARTICLE 30
SIGNATORY WARRANTY**

The undersigned signatory for the Engineer hereby represents and warrants that the signatory is an officer of the organization for which he or she has executed this contract on behalf of the firm.

IN WITNESS WHEREOF, the County and the Engineer have executed these presents in duplicate.

COUNTY OF NUECES

ENGINEER: LNV, Inc.

By: _____
County Judge

By: [Signature]

Title: VICE PRESIDENT

Date: _____

Date: 3/12/15

ATTEST:

County Clerk

List of Attachments

- Attachment A – Services To Be Provided By The County
- Attachment B – Services To Be Provided By The Engineer
- Attachment C1 – Work Schedule
- Attachment C2 – Community Development Fund Special Conditions
- Attachment D – Payment Schedule
- Attachment E – Work Authorization
- Attachment F – Status Report

ATTACHMENT A

SERVICES TO BE PROVIDED BY THE COUNTY

1. Provide any relevant drawings of the project.
2. Provide copies of all current permits, plans, surveys, and drawings applicable to the projects upon request.
3. Provide any additional documentation related to the project upon request.
4. Provide access to the project area for the duration of the project.
5. Provide contact information for key personnel involved with this project.
6. Provide any relevant historical environmental or engineering data upon request.
7. Provide assistance as necessary with schedules.
8. Make ten (10) day call to confirm prevailing wage decision.
9. Incorporate any and all wage rate modifications or supersedes via bid addendum (if applicable).
10. Conduct bid opening and prepare minutes.
11. Tabulate, analyze, and review bids for completeness and accuracy.
12. Accomplish Construction Contractor eligibility verification.
13. Participate in pre-construction conference and prepare copy of report/minutes.
14. Issue Labor Standards Record to TDA and Notice to Proceed to construction contractor.

ATTACHMENT B

SERVICES TO BE PROVIDED BY THE ENGINEER

The Engineering Firm shall render the following professional services necessary for the development of the Project:

SCOPE OF SERVICES

1. Attend preliminary conferences with the County regarding the requirements of the project.
2. Determine necessity for acquisition of any additional real property/easements/ROW's for the CDBG project and, if applicable, furnish to the County:
 - Name and address of property owners;
 - Legal description of parcels to be acquired; and
 - Map showing entire tract with designation of part to be acquired.
3. Make any necessary surveys of existing rights-of-way, topography, utilities, or other field data required for proper design of the project. Provide consultation and advice as to the necessity of the County providing or obtaining other services such as auger borings, core borings, soil tests, or other subsurface explorations; laboratory testing and inspecting of samples or materials; other special consultations. The Engineer will review any tests required and act as the County's representative in connection with any such services.
4. Prepare railroad/highway permits.
5. Prepare preliminary engineering/architectural study and report on the project in sufficient detail to indicate clearly the problems involved and the alternate solutions available to the County, to include preliminary layouts, sketches and cost estimates for the project, and to set forth clearly the Engineer's recommendations; to be completed within 30 days of contract execution.
6. Furnish the County copies of the preliminary report, if applicable (additional copies will be furnished to the County at direct cost of reproduction).
7. Furnish the County a written status report upon request (Attachment F).
8. Submit detailed drawings and plans/specifications to appropriate regulatory agency(ies) and obtain clearance.
9. Assist in the preparation of the bid packet/contract documents/advertisement for bids. At the time the bid packet is completed, the Engineering Firm shall also furnish to the County an updated written Estimate of Probable Costs for the project.

10. Provide in all proposed construction contracts deductive alternatives where feasible, so that should the lowest responsive base bid for construction exceed the funds available, deductive alternatives can be taken to reduce the bid price.
11. Design for access by persons with disabilities to facilities to be used by the public in accordance with Public Law 504.
12. Make periodic visits, no less than every thirty (30) days during the construction period, to the site to observe the progress and quality of the work, and to determine in general if the work is proceeding in accordance with the Contract.
13. Consult with and advise the County during construction; issue to Contractors all instructions requested by the County; and prepare routine change orders if required, at no charge for engineering services to the County when the change order is required to correct errors or omissions by the Engineer; provide price analysis for change orders; process change orders approved by County and the Project Engineer and submit to TDA for approval prior to execution with the Construction Contractor.
14. Review shop and working drawings furnished by Contractors for compliance with design concept and with information given in contract documents (Contractors will be responsible for dimensions to be confirmed and correlated at job site).
15. Resolve all payment requests within thirty (30) days of receipt of signed pay request from the Construction Contractor.
16. Based on the Engineer's on-site observations and review of the Contractor's applications for payment, determine the amount owed to the Contractor in such amounts; such approvals of payment to constitute a representation to the County, based on such observations and review, that the work has progressed to the point indicated and that the quality of work is in accordance with the plans, specifications and contract documents.
17. Recommend that a 10% retainage is withheld from all payments on construction contracts until final acceptance by the County and approval by TDA, unless State or Local law provides otherwise.
18. Prepare Certificate of Construction Completion and Clean Lien Certificate. A Clean Lien Certificate may be prepared for each of the Prime Contractor(s) and each of the subcontractor(s).
19. Conduct interim/final inspections.
20. Revise contract drawings to show the work as actually constructed, and furnish the County with a set of "record drawings" plans.
21. The Engineer will provide a copy of the final project record drawing(s) engineering schematic(s), as constructed using funds under this contract. These maps shall be provided in digital format containing the source map data (original vector data) and the graphic data in

files on machine readable media, such as compact disc (CD), which are compatible with computer systems owned or readily available to the County. The digital copy provided shall not include a digital representation of the Engineer's seal but the accompanying documentation from the Engineer shall include a signed statement of when the map was authorized, that the digital map is a true representation of the original sealed document, and that a printed version with the seal has been provided to the County. In addition, complete documentation as to the content and layout of the data files and the name of the software package(s) used to generate the data and maps shall be provided to the County in written form.

SUBCONTRACTORS

1. No work under this contract shall be subcontracted by Engineer without prior approval, in writing, from the County.
2. The Engineer shall, prior to proceeding with the work, notify County in writing of the name of any subcontractors proposed for the work, including the extent and character of the work to be done by each.
3. If any time during progress of the work, the County determines that any subcontractor is incompetent or undesirable, the County will notify the Engineer who shall take reasonable and immediate steps to satisfactorily cure the problem, substitute performance, or cancel such subcontract. Subletting by subcontractors shall be subject to the same regulations. Nothing contained in this contract shall create any contractual relation between any subcontractors and County.
4. The Engineer will include in all contracts and subcontracts of amounts in excess of \$100,000 a provision which requires compliance with all applicable standards, orders or requirements issued under Section 306 of the Clean Air Act [42 U.S.C 7606], Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR 31.35 and 31.36), which prohibit the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. The provisions shall require reporting of violations to TDA and to the U.S. Environmental Protection Agency Assistant Administrator for Enforcement.
5. The Engineer will include in all contracts and subcontracts other than for small purchases (less than \$10,000), provisions or conditions which will allow for administrative, contractual or legal remedies in instances which violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate.
6. The Engineer will include in all contracts and subcontracts in excess of \$10,000 suitable provisions for termination by the County including the manner by which it will be affected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the Engineer.

7. The Engineer will include in all contracts and subcontracts in excess of \$10,000 provisions requiring compliance with the following:
 - The Engineer will not discriminate against any employee or applicant for employment because of race, creed, sex, color, national origin, physical or mental disability, marital status, parenthood, or age.
 - Executive Order 11246-Equal Employment Opportunity.
 - Copeland Anti-Kickback Act.
 - Davis-Bacon Act – prime contractor contracts in excess of \$2,000.
 - Section 103 and 107 of the Contract Work Hours and Safety Standards Act – contracts in excess of \$2,000.
 - A provision recognizing mandatory standards and policies relating to energy efficiency that are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act.
 - Section 3 of the Housing and Urban Development Act of 1969.
 - Title VI of the Civil Rights Act of 1964.
8. The Engineer will include in all negotiated contracts and subcontracts a provision which indicates that funds will not be awarded under this contract to any party which is debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs under Executive Order 12549 and 24 CFR Part 24. A certification shall be provided and received from each proposed subcontractor under this contract and its principals.
9. The Engineer will include in all negotiated contracts and subcontracts a provision to the effect that the County, TDA, the Comptroller General of the State of Texas, or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the Contractor which are directly pertinent to that specific contract, for the purpose of making audit, examination, excerpts, and transcriptions.
10. The Engineer will include in all contracts and subcontracts a requirement that the Contractor maintain all relevant records for three (3) years after the County has made final payment to the Contractor and all other pending matters are closed.

STANDARD OF PERFORMANCE AND DEFICIENCIES

1. All services of the Engineer and its independent professional associates, consultants and subcontractors will be performed in a professional, reasonable and prudent manner in accordance with generally accepted professional practice. The Engineer represents that it has the required skills and capacity to perform work and services to be provided under this Contract.

2. The Engineer represents that services provided under this Contract shall be performed within the limits prescribed by the County in a manner consistent with that level of care and skill ordinarily exercised by other professional consultants under similar circumstances.
3. Any deficiency in Engineer's work and services performed under this contract shall be subject to the provisions of applicable state and federal law. Any deficiency discovered shall be corrected upon notice from County and at the Engineer's expense if the deficiency is due to Engineer's negligence. The County shall notify the Engineer in writing of any such deficiency and provide an opportunity for mutual investigation and resolution of the problem prior to pursuit of any judicial remedy. In any case, this provision shall in no way limit the judicial remedies available to the County under applicable state or federal law.
4. The Engineer agrees to and shall hold harmless the County, its officers, employees, and agents from all claims and liability of whatsoever kind or character due to or arising solely out of the negligent acts or omissions of the Engineer, its officers, agents, employees, subcontractors, and others acting for or under the direction of the Engineer doing the work herein contracted for or by or in consequence of any negligence in the performance of this contract, or by or on account of any omission in the performance of this contract.

ATTACHMENT C1

WORK SCHEDULE

Activity to be Completed:	Due Date:
Draft Plans and Specifications	April 2015
Final Plans and Specifications	May 2015
Completion of Environmental Review	May 2015
Bid Phase for Construction	July 2015
Pre-Construction Meeting	August 2015
Ensure 50% Completion of Construction	January 2016
Ensure 75% Completion of Construction	April 2016
Ensure 90% Completion of Construction	June 2016
Submission of "As Builts"	July 2016
Final Inspection Completed	July 2016
Final Closeout Assessment	January 2017

* The County reserves the right to amend the due date(s) described herein prior to completion of final contract negotiations.

**Community Development Fund, Special Conditions for Contract No. 7214085, attached (Attachment C2).

<u>Task Description</u>	<u>Amount Payable</u>	<u>Working Days</u>
1. Survey	\$ 4,959.00	5
2. Civil Design	\$ 40,505.00	30
3. Bid Phase	\$ 2,978.00	30
4. Attend Pre-bid Meeting and Recommend Contractor	\$ 2,312.00	5
5. Pre-Construction Meeting	\$ 1,492.00	5
6. Construction Administration	\$ 7,754.00	60
Total	\$ 60,000.00	135

ATTACHMENT C2
COMMUNITY DEVELOPMENT FUND
SPECIAL CONDITIONS
COUNTY OF NUECES

A. Special Conditions for Release of Construction Funds

Funds for construction activities under this contract will not be released to the Contractor by the Department until the following special conditions for release of funds are met. These special conditions must be satisfactorily completed no later than twelve (12) months after the contract start date. In accordance with Section 6 of the contract, the Department shall terminate this contract twelve (12) months after the commencement date specified in Section 2 if these special conditions are not met by such date. Contractor shall submit to the Department:

1. Documentation evidencing Contractor's completion of its responsibilities for environmental review and decision-making pertaining to the project as required by Section 13 (Environmental Review) of this contract, and its compliance with NEPA and other provisions of law that further the purposes of NEPA, as specified in 24 CFR 58.5.
2. Certification that Contractor has received all required pre-construction permits or approvals from the appropriate federal, state, or local entity or regulatory agency prior to beginning construction activities under this contract.
3. Prior to bidding construction for a project that includes first-time water or sewer service connections, the contractor must submit to the Department a list of households that have committed to connecting to the project. The list must be signed by the chief elected official and must identify all LMI households eligible for TxCDBG funded yard lines. The commitment from the household must be maintained in the local files and must be binding in nature, e.g., the system's standard request for service and payment of a nonrefundable deposit.
4. Other documentation required by the Department for release of construction funds as specified in Chapter 2 of the TxCDBG Project Implementation Manual.

B. Other Special Conditions

1. Prior to the Contractor submission of the Project Completion Report for the water system improvements described in the Performance Statement, the Contractor shall provide a letter from the Texas Commission on Environmental Quality that the constructed well is approved for interim use and may be temporarily placed into service pursuant to Title 30 of the Texas Administrative Code, Chapter 290 (Rules and Regulations for Public Water Systems).
2. Project Mapping/Design Information and Copyright
 - a. The Contractor shall receive and maintain a copy of the final project record drawing(s) engineering schematic(s), as constructed using funds under this contract. These maps shall be provided in digital format containing the source map data (original vector data) and the graphic data in files on machine readable media, such as compact disc (CD), which are compatible with computer systems owned or readily available to the Contractor. The digital copy provided shall not include a digital representation of the engineer's seal but the accompanying documentation from the engineer shall include a signed statement of when the map was authorized, that the digital map is a true representation of the original sealed document, and that a printed version with the seal has been provided to the Contractor. In addition, complete documentation as to the content and layout of the data files and the name of the software package(s) used to generate the data and maps shall be

received and maintained by Contractor in written form. The Contractor shall provide the Department upon request a copy of all the electronic files and other data received, including the original vector data, and all documentation in electronic format, on a CD or other media in a file format determined by the Department. If requested by the Department, the Contractor shall ensure that the CD copy of all the electronic files and other data provided to the Department are properly identified. Specifically, the CD label shall show the Contractor's name, the Department's assigned contract number, the contents of CD, the preparer's name, and the name of the software package(s) used to generate the maps on the CD.

b. Where activities supported by this contract produce copyrightable material, the Contractor shall not assert any rights at common law or in equity or establish any claim to statutory copyright in such material without the Department's prior written approval. The Department reserves a royalty-free, nonexclusive, and irrevocable license to copy, produce, publish, and use such material, and to authorize others to do so.

c. Provisions appropriate to effectuate the purposes of this subsection must be in all employment contracts, consultant contracts, including engineering consultant contracts, and other contracts or agreements in which funds received by the Contractor under this contract are involved.

ATTACHMENT D
PAYMENT SCHEDULE

The County shall reimburse Engineer for engineering services provided based on the hourly rates and hours listed below:

<u>Job Title</u>	<u>Hourly Rate</u>	<u>Total Hours</u>	<u>Maximum Amount Payable</u>
Project Principal	\$188.00	28	\$ 5,264.00
Project Manager	\$185.00	71	\$13,135.00
Project Engineer	\$142.00	66	\$ 9,372.00
Designer	\$ 90.00	90	\$ 8,100.00
CADD-Tech	\$ 75.00	140	\$10,500.00
Inspector	\$ 75.00	78	\$ 5,850.00
Survey Crew	\$171.00	29	\$ 4,959.00
Administrative	\$ 63.00	44	<u>\$ 2,820.00</u>
		Total	<u>\$60,000.00</u>

ATTACHMENT E

WORK AUTHORIZATION

This work authorization is issued in accordance with the Engineering Services Contract dated _____, between Nueces County and _____

Work Task:

Cost:

Deliverables:

Completion date:

COUNTY OF NUECES

CONTRACTOR

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

**ATTACHMENT F
STATUS REPORT**

Grant Recipient: _____

Date Submitted: _____

Grant No.: _____

Reporting Period: _____

Project Status:

Date of Last Inspection: _____

Name of Inspector: _____

Inspection Description:

Projected Date of Construction Completion: _____

Amount of Last Pay Request: _____

Date of Last Pay Request: _____

Status of Last Pay Request: _____

List of Subcontractors Onsite

Name

Date Cleared by Grant Administrator

_____	_____
_____	_____
_____	_____

**This report may be e-mailed or faxed to the Grant Recipient*