

AMENDMENT NO. 2 TO AGREEMENT FOR ENGINEERING SERVICES

THE STATE OF TEXAS §
§
COUNTY OF HARRIS §

THIS AMENDMENT NO. 2 TO AGREEMENT is made, entered into, and executed by and between the **Harris County Flood Control District**, a body corporate and politic under the laws of the State of Texas, hereinafter called "District," and **Lockwood, Andrews & Newnam, Inc.**, a Texas corporation, hereinafter called "Engineer."

WITNESSETH, THAT

WHEREAS, on or about October 29, 2019, the District and the Engineer entered into an Agreement for Engineering Services to provide preliminary, design and bidding phase engineering services in support of construction of the Lauder Stormwater Detention Basin Phase II, Harris County Flood Control Unit P500-06-00 (the "Agreement"); and

WHEREAS, the District and the Engineer previously amended the Agreement, on April 27, 2021, to expand the scope to include construction phase engineering services to be performed by Engineer and additional compensation to be paid to Engineer in connection with the project; and

WHEREAS, the District requires additional engineering services as provided under Section III, Additional Services, and under Appendix B and Appendix B (Supplemental) of the Agreement; and

WHEREAS, in this Amendment No. 2 to Agreement, the District and the Engineer desire to supplement Appendix B, General Scope of Additional Services and Appendix B (Supplemental), General Scope of Additional Services to add Appendix B (Supplemental No. 2), General Scope of Additional Services, and to provide for additional engineering services to be performed by the Engineer; and

WHEREAS, the Engineer is willing to provide the necessary additional engineering services for further consideration; and

WHEREAS, the District and the Engineer desire to increase the existing rate classifications under Section V, The Engineer's Compensation; and

WHEREAS, the District and the Engineer now desire to increase the Limit of Appropriation by \$150,000.00, to \$1,695,000.00.

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

SECTION V of the Agreement, entitled, "The Engineer's Compensation," as amended and now reading:

For and in consideration of the Basic Services, performed by the Engineer, as set forth in Section I, the District shall pay the Engineer a fixed fee of \$739,818.00, with monthly payments toward same based on the percentage of each task completed during the preceding calendar month, subject to acceptance by the District. The fee allocation by task to be used for billing purposes is as follows:

	<u>Amount</u>
A.1.A. Preliminary Engineering Report	\$300,033.00
A.2.A 50% Submittal	\$219,893.00
A.2.B Bid Ready Submittal	\$131,935.00
A.2.C Final Plans Submittal	<u>\$ 87,957.00</u>
	\$739,818.00

Adjustments to the fee allocation may be made within the Total Basic Services Fee with prior review and written approval by the Director.

The District shall reimburse the Engineer according to the following rates for Additional Services provided pursuant to Section III by employees of the Engineer:

Responsibility	Maximum Hourly Rate
Principal	\$275.00
Team Leader	\$260.00
Senior Project Manager	\$270.00
Project Manager	\$210.00
Senior Engineer III, P.E.	\$195.00
Senior Engineer II, P.E.	\$180.00
Senior Engineer I, P.E.	\$160.00
Engineer V	\$145.00
Engineer IV	\$132.00
Engineer III	\$121.00
Engineer II	\$111.00
Engineer I	\$100.00
Senior GIS Analyst II	\$160.00
Senior GIS Analyst I	\$105.00
GIS Analyst II	\$ 95.00
GIS Analyst I	\$ 85.00
Senior Construction Manager	\$180.00
Construction Manager	\$150.00
Inspector III	\$115.00
Inspector II	\$ 95.00
Inspector I	\$ 90.00
Designer IV	\$135.00
Designer III	\$125.00
Designer II	\$110.00
Designer I	\$105.00

<u>Responsibility</u>	<u>Maximum Hourly Rate</u>
Technician/CAD Operator II	\$100.00
Technician/CAD Operator I	\$ 95.00
Senior Ecologist	\$120.00
Ecologist	\$100.00
Administrative Assistant II	\$ 95.00
Administrative Assistant I	\$ 90.00
Clerical Support	\$ 85.00
Data Entry	\$ 75.00

The District may also authorize Additional Services to be compensated on a fixed fee basis upon acceptance by the Engineer. The District shall pay the Engineer a prorated amount of the fixed fee monthly, based on the percentage of the task completed during the preceding calendar month, subject to acceptance by the District. Where authorization of Additional Services is made on a fixed fee basis, the hourly rates set out above shall not apply.

Notwithstanding anything that may be construed to the contrary herein, in no event shall the Engineer be entitled to compensation and reimbursement in excess of \$805,182.00 for performing Additional Services hereunder. Nor shall the Engineer be required to perform Additional Services hereunder after becoming entitled to compensation and reimbursement of \$805,182.00 for Additional Services.

Adjustments to the Additional Services budget allocation may be made with written approval by the Director.

It is expressly understood that the Engineer shall neither seek reimbursement nor will the District be obligated to pay or reimburse the Engineer for normal business expenses such as overtime, postage, messenger services, delivery charges, mileage within Harris County, parking fees, facsimile (fax) transmissions, computer time on in-house computers and graphic systems, blue-line drawings or photocopies specifically required in Section II, or other costs or expenses, except those for which reimbursement is specifically provided in the following sentence. If approved in writing by the Director prior to their being incurred, the Engineer may be reimbursed the reasonable and necessary cost of the following, to the extent they are incurred in providing services hereunder: services performed by a subcontractor pursuant to authorization for such expenses and as permitted by the County Purchasing Act, copies of reports or other documents to be delivered to the District or in accordance with instructions of the District in excess of the number specifically required by Section II, costs of travel outside of Harris County, rental costs of transportation equipment necessary to gain access to the Project site, costs of presentation materials (i.e., charts, slides, transparencies), costs of abstracting, and costs of photographic and video services.

The Engineer shall, at no additional charge, maintain a record of each purchase order received under the Agreement and shall provide a status report to the Director upon receipt of each purchase order. The status report shall consist of a spreadsheet, that clearly indicates the project names, Purchase Order numbers and amounts, the not to exceed limit defined in Section IX (Limit of Appropriation), and the balance remaining that may be certified as available for additional purchase orders under this Agreement. Within thirty (30) days after execution of this Agreement, the District shall have issued an initial Purchase Order to the Engineer in the amount of \$904,413.00 to perform services assigned during the term of this Agreement in accordance with the terms hereof.

is hereby amended to read:

For and in consideration of the Basic Services, performed by the Engineer, as set forth in Section I, the District shall pay the Engineer a fixed fee of \$739,818.00, with monthly payments toward same based on the percentage of each task completed during the preceding calendar month, subject to acceptance by the District. The fee allocation by task to be used for billing purposes is as follows:

	<u>Amount</u>
A.1.A. Preliminary Engineering Report	\$300,033.00
A.2.A 50% Submittal	\$219,893.00
A.2.B Bid Ready Submittal	\$131,935.00
A.2.C Final Plans Submittal	<u>\$ 87,957.00</u>
	\$739,818.00

Adjustments to the fee allocation may be made within the Total Basic Services Fee with prior review and written approval by the Director.

The District shall reimburse the Engineer according to the following rates for Additional Services provided pursuant to Section III by employees of the Engineer:

Responsibility	Maximum Hourly Rate
Principal	\$335.00
Team Leader	\$295.00
Senior Project Manager	\$275.00
Project Manager	\$220.00
Senior Engineer III, P.E.	\$205.00
Senior Engineer II, P.E.	\$190.00
Senior Engineer I, P.E.	\$170.00
Engineer V	\$155.00
Engineer IV	\$140.00
Engineer III	\$125.00
Engineer II	\$115.00
Engineer I	\$105.00
Senior GIS Analyst II	\$170.00
Senior GIS Analyst I	\$120.00
GIS Analyst II	\$105.00
GIS Analyst I	\$ 85.00
Senior Construction Manager	\$190.00
Construction Manager	\$160.00
Inspector III	\$120.00
Inspector II	\$100.00
Inspector I	\$ 95.00
Designer IV	\$145.00
Designer III	\$130.00
Designer II	\$115.00
Designer I	\$110.00

<u>Responsibility</u>	<u>Maximum Hourly Rate</u>
Technician/CAD Operator II	\$105.00
Technician/CAD Operator I	\$ 95.00
Senior Ecologist	\$120.00
Ecologist	\$100.00
Administrative Assistant II	\$100.00
Administrative Assistant I	\$ 90.00
Clerical Support	\$ 85.00
Data Entry	\$ 75.00

The District may also authorize Additional Services to be compensated on a fixed fee basis upon acceptance by the Engineer. The District shall pay the Engineer a prorated amount of the fixed fee monthly, based on the percentage of the task completed during the preceding calendar month, subject to acceptance by the District. Where authorization of Additional Services is made on a fixed fee basis, the hourly rates set out above shall not apply.

Notwithstanding anything that may be construed to the contrary herein, in no event shall the Engineer be entitled to compensation and reimbursement in excess of \$955,182.00 for performing Additional Services hereunder. Nor shall the Engineer be required to perform Additional Services hereunder after becoming entitled to compensation and reimbursement of \$955,182.00 for Additional Services.

Adjustments to the Additional Services budget allocation may be made with written approval by the Director.

It is expressly understood that the Engineer shall neither seek reimbursement nor will the District be obligated to pay or reimburse the Engineer for normal business expenses such as overtime, postage, messenger services, delivery charges, mileage within Harris County, parking fees, facsimile (fax) transmissions, computer time on in-house computers and graphic systems, blue-line drawings or photocopies specifically required in Section II, or other costs or expenses, except those for which reimbursement is specifically provided in the following sentence. If approved in writing by the Director prior to their being incurred, the Engineer may be reimbursed the reasonable and necessary cost of the following, to the extent they are incurred in providing services hereunder: services performed by a subcontractor pursuant to authorization for such expenses and as permitted by the County Purchasing Act, copies of reports or other documents to be delivered to the District or in accordance with instructions of the District in excess of the number specifically required by Section II, costs of travel outside of Harris County, rental costs of transportation equipment necessary to gain access to the Project site, costs of presentation materials (i.e., charts, slides, transparencies), costs of abstracting, and costs of photographic and video services.

The Engineer shall, at no additional charge, maintain a record of each purchase order received under the Agreement and shall provide a status report to the Director upon receipt of each purchase order. The status report shall consist of a spreadsheet, that clearly indicates the project names, Purchase Order numbers and amounts, the not to exceed limit defined in Section IX (Limit of Appropriation), and the balance remaining that may be certified as available for additional purchase orders under this Agreement. Within thirty (30) days after execution of this Agreement, the District issued an initial Purchase Order to the Engineer in the amount of \$904,413.00 to perform services assigned during the term of this Agreement in accordance with the terms hereof.

SECTION IX of the Agreement, entitled, "Limit of Appropriation," as amended and now reading:

The Engineer has been advised by the District, and the Engineer clearly understands and agrees, such understanding and agreement being of the absolute essence to this Agreement, that the District has available the initial sum of \$904,413.00 specifically allocated to fully discharge any and all liabilities that may be incurred by the District pursuant to the terms of this Agreement, and that the maximum compensation the Engineer may become entitled to hereunder and the maximum sum the District shall become liable to pay to the Engineer hereunder, shall not under any conditions, circumstances, or interpretations hereof exceed the said maximum sum provided for in this Section and certified as available therefor by the County Auditor as evidenced by the issuance of a Purchase Order from the Harris County Purchasing Agent in this amount, except to the extent that additional funds are certified as available in accordance with Purchase Orders issued pursuant to Section II. The total amount of funds which can be certified without amendment to this Agreement shall not exceed \$1,545,000.00.

If the Professional Services and charges to be provided for will equal or exceed the amount certified available, the Engineer shall notify the District immediately. If the amount certified is depleted prior to the end of the term of this Agreement, the Engineer may terminate all Professional Services upon the total depletion of the certified funds unless the District certifies additional funds, as evidenced by a written amendment to this Agreement and the Purchase Order, in which event the Engineer shall continue to provide the approved Professional Services herein specified to the extent funds are available.

is hereby amended to read:

The Engineer has been advised by the District, and the Engineer clearly understands and agrees, such understanding and agreement being of the absolute essence to this Agreement, that the District has available the initial sum of \$904,413.00 specifically allocated to fully discharge any and all liabilities that may be incurred by the District pursuant to the terms of this Agreement, and that the maximum compensation the Engineer may become entitled to hereunder and the maximum sum the District shall become liable to pay to the Engineer hereunder, shall not under any conditions, circumstances, or interpretations hereof exceed the said maximum sum provided for in this Section and certified as available therefor by the County Auditor as evidenced by the issuance of a Purchase Order from the Harris County Purchasing Agent in this amount, except to the extent that additional funds are certified as available in accordance with Purchase Orders issued pursuant to Section II. The total amount of funds which can be certified without amendment to this Agreement shall not exceed \$1,695,000.00.

If the Professional Services and charges to be provided for will equal or exceed the amount certified available, the Engineer shall notify the District immediately. If the amount certified is depleted prior to the end of the term of this Agreement, the Engineer may terminate all Professional Services upon the total depletion of the certified funds unless the District certifies additional funds, as evidenced by a written amendment to this Agreement and the Purchase Order, in which event the Engineer shall continue to provide the approved Professional Services herein specified to the extent funds are available.

SECTION XII of the Agreement, entitled, "Compliance and Standards," reading:

The Engineer agrees to perform the work hereunder in accordance with generally accepted standards applicable thereto and shall use that degree of care and skill commensurate with the Engineer's profession to comply with all applicable state, federal, and local laws, ordinances, rules, and regulations relating to the work to be performed hereunder and the Engineer's performance. The Engineer represents that, prior to performing hereunder, he has or shall obtain

all necessary licenses, ownership, or permission for use of any and all proprietary information, materials, or trade secrets employed in the performance of work hereunder for the District and agrees that it shall not copy, reproduce, recreate, distribute, or use any such proprietary information, materials, or trade secrets of any third party, except to the extent permitted by such third parties, or as otherwise authorized by law.

In accordance with TEX. GOV'T CODE ANN. § 2270.002, the Engineer warrants and represents that it does not boycott Israel and agrees that it will not boycott Israel during the term of this contract.

The Engineer represents and certifies that, at the time of execution of this Agreement, the Engineer (including, in this provision, any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of the same) is not listed by the Texas Comptroller of Public Accounts pursuant to Chapters 2252 or 2270 of the Texas Government Code, nor will the Engineer engage in scrutinized business operations or other business practices that could cause it to be listed during the term of this Agreement.

is hereby amended to read:

The Engineer agrees to perform the work hereunder in accordance with generally accepted standards applicable thereto and shall use that degree of care and skill commensurate with the Engineer's profession to comply with all applicable state, federal, and local laws, ordinances, rules, and regulations relating to the work to be performed hereunder and the Engineer's performance. The Engineer represents that, prior to performing hereunder, he has or shall obtain all necessary licenses, ownership, or permission for use of any and all proprietary information, materials, or trade secrets employed in the performance of work hereunder for the District and agrees that it shall not copy, reproduce, recreate, distribute, or use any such proprietary information, materials, or trade secrets of any third party, except to the extent permitted by such third parties, or as otherwise authorized by law.

In accordance with TEX. GOV'T CODE ANN. § 2271.002, the Engineer warrants and represents that it does not boycott Israel and agrees that it will not boycott Israel during the term of this contract.

The Engineer represents and certifies that, at the time of execution of this Agreement, the Engineer (including, in this provision, any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of the same) is not listed by the Texas Comptroller of Public Accounts pursuant to Chapters 2252 or 2270 of the Texas Government Code, nor will the Engineer engage in scrutinized business operations or other business practices that could cause it to be listed during the term of this Agreement.

The Engineer warrants and represents, in accordance with Tex. Gov't Code Ann. § 2274.002, that unless the Engineer meets an exemption under subsection (c), then, as required by subsection (b), the Engineer's signature on this Agreement constitutes the Engineer's written verification that it does not boycott energy companies and will not boycott energy companies during the term of the contract.

The Engineer warrants and represents, in accordance with Tex. Gov't Code Ann. § 2274.002, that unless the Engineer meets an exemption under subsection (c) or section 2274.003, then, as required by subsection (b) of section 2274.002, the Engineer's signature on this Agreement constitutes the Engineer's written verification that it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not discriminate against a firearm entity or firearm trade association during the term of the contract.

Appendix B to the Agreement entitled “General Scope of Additional Services,” and Appendix B (Supplemental), “General Scope of Additional Services,” is hereby supplemented by the addition of the attached Appendix B (Supplemental No. 2), “General Scope of Additional Services,” which is made a part thereof by reference for all purposes.

All other terms and provisions of the Agreement and the previous Amendment shall remain in full force and effect as originally written.

EXECUTED on _____.

APPROVED AS TO FORM:

CHRISTIAN D. MENELEE
HARRIS COUNTY ATTORNEY

HARRIS COUNTY FLOOD CONTROL
DISTRICT

DocuSigned by:
Emily Kunst
ED17653073344AD...
By _____
Emily Kunst
Assistant County Attorney

By _____
Lina Hidalgo
County Judge

ATTEST:

LOCKWOOD, ANDREWS & NEWNAM, INC.

DocuSigned by:
Yu-Chun Su
F412A6B01D8B49B...

Yu-Chun Su

Name

EWRE Technical Director

Title

DocuSigned by:
Matthew J Manges
ED1741CB02FD46C...

Matthew J Manges

Name

Vice President

Title

APPENDIX B
(SUPPLEMENTAL NO. 2)
GENERAL SCOPE OF ADDITIONAL SERVICES

The Engineer shall render the following Additional Services in connection with the Project when authorized in writing by the Director:

2. SURVEY SERVICES

C. Provide as-built survey of Lauder SWDB Phase 2 Compartment 1 to determine final quantities of excavated material upon completion of construction. Provide information for the Record Drawings.

11. CONSTRUCTION PHASE

B. Additional Construction Phase Services (CPS) of a dry bottom Lauder SWDB Phase 2 Compartment 1 based on a target construction budget of \$20.504 million with an estimated construction period of 581 days.

performed by the Engineer; and

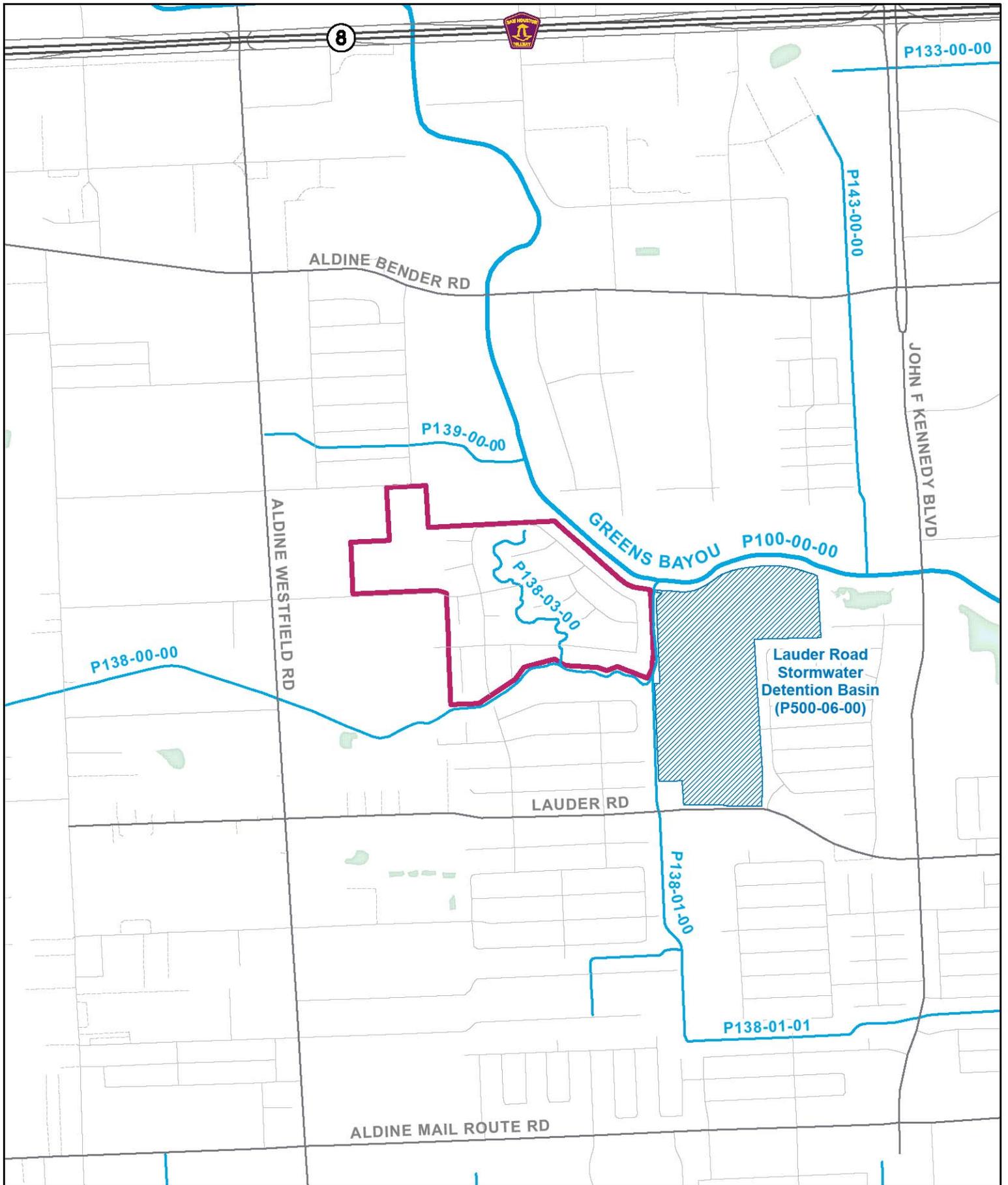
WHEREAS, the Engineer is willing to provide the necessary additional engineering services for further consideration; and

WHEREAS, the District and the Engineer desire to increase the existing rate classifications under Section V, The Engineer's Compensation; and

WHEREAS, the District and the Engineer now desire to increase the Limit of Appropriation by \$150,000.00, to \$1,695,000.00.

NOW, THEREFORE, BE IT ORDERED BY THE COMMISSIONERS COURT OF HARRIS COUNTY, TEXAS THAT:

- Section 1: The recitals set forth in this order are true and correct.
- Section 2: Exemption from the County Purchasing Act under Texas Local Government Code § 262.024(a)(4) is hereby granted.
- Section 3: County Judge Lina Hidalgo is hereby authorized to execute for and on behalf of the Harris County Flood Control District, Amendment No. 2 to Agreement for Engineering Services by and between the Harris County Flood Control District and Lockwood, Andrews & Newnam, Inc., to provide additional engineering services in support of construction of the Lauder Stormwater Detention Basin Phase II, for a fee increase of \$150,000.00, raising the maximum fee to be paid by the District to \$1,695,000.00, said Amendment No. 2 to Agreement being incorporated herein by reference for all purposes as though fully set forth verbatim herein.



Project ID: P500-06-00-E006
Watershed: Greens Bayou
Precinct: 2

- Project Boundary
- Harris County Precincts**
- Judge Lina Hidalgo
- 1 - Rodney Ellis
- 2 - Adrian Garcia
- 3 - Tom S. Ramsey, P.E.
- 4 - Lesley Briones

