

**FIRST AMENDMENT TO
ENGINEERING SERVICES AGREEMENT**

**THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §**

This First Amendment to Agreement is entered into by **Harris County**, a body corporate and politic under the laws of the State of Texas, hereinafter called "County," acting herein for the **Harris County Toll Road Authority** (HCTRA), a division of the County, and **Entech Civil Engineers, Inc.**, hereinafter called the "Engineer" or "Company".

WITNESSETH:

WHEREAS, the County and the Engineer entered into an agreement on February 27, 2018, to provide Construction Engineering and Inspection Services in support of the construction of the Lorraine Street Underpass, including a pump station, utility relocations, and associated drainage features, in connection with the Hardy Toll Road Downtown Connector Project, in Harris County, Texas; and

WHEREAS, the County and the Engineer now desire to amend the Agreement to increase Compensation and Payment to be paid by the County to the Engineer for additional work under the Scope of Services, revise the Indemnification, amend the provision for the Delivery of Notices, and add Historically Underutilized Business Requirements; and

WHEREAS, the provisions of Chapter 262, Texas Local Government Code, Competitive Bidding Law do not apply to the proposed amendment because the contract is for professional engineering services;

NOW, THEREFORE, in consideration of the mutual covenants and conditions set forth below, the parties agree as follows:

1.

That part of Section 3(a) of the Agreement, Compensation and Payment, which currently reads as follows:

The Engineer shall be entitled to payment based on hourly rates and reimbursement as set forth in this section, and the Engineer agrees that such payment will constitute full compensation for the performance of services under this Agreement. The County shall not be obligated to pay in excess of **\$1,750,000.00...**

Is hereby amended to read as follows:

The Engineer shall be entitled to payment based on hourly rates and reimbursement as set forth in this section, and the Engineer agrees that such payment will constitute full compensation for the performance of services under this Agreement. The County shall not be obligated to pay in excess of **\$2,175,000.00...**

2.

That Section 3(c) of the Agreement, Compensation and Payment, which currently reads as follows:

It is expressly understood and agreed that the County has available the total maximum sum of **\$1,750,000.00** as hereinafter certified available for the purpose of satisfying the County's obligations under the terms and provisions of this Agreement. The County shall not be liable under any circumstances or any interpretations hereof for any costs under the Agreement except for those certified available for this Agreement by the Harris County Auditor, as evidenced by the issuance of a purchase order by the Harris County Purchasing Agent for the certified amount. Once the funds are expended for the purpose of satisfying the County's obligations under the terms and provision of this Agreement, the County shall have no further obligations nor shall the Engineer be required to perform further services hereunder.

Is hereby amended to read as follows:

It is expressly understood and agreed that the County has available the total maximum sum of **\$2,175,000.00** as hereinafter certified available for the purpose of satisfying the County's obligations under the terms and provisions of this Agreement. The County shall not be liable under any circumstances or any interpretations hereof for any costs under the Agreement except for those certified available for this Agreement by the Harris County Auditor, as evidenced by the issuance of a purchase order by the Harris County Purchasing Agent for the certified amount. Once the funds are expended for the purpose of satisfying the County's obligations under the terms and provisions of this Agreement, the County shall have no further obligations nor shall the Engineer be required to perform further services hereunder.

3.

That Section 16 of the Agreement, Indemnification, which currently reads as follows:

The Engineer shall save harmless the County from and against all claims and liability due to the activities of the Engineer, its agents or employees, performed under this contract and which result from any negligent act, error, or omission of the Engineer or of any person employed by the

Engineer. The Engineer shall also save harmless the County from and against any and all expenses, including reasonable attorney's fees which might be incurred by the County, in litigation or otherwise resisting said claims or liabilities.

Additionally, the Engineer shall indemnify, save and hold the County, its officials, officers, agents and employees, harmless of, from and against any and all claims, causes of action and damages arising from any copyright, trademark or patent infringement occurring or arising from the introduction and/or use, in whole or part, of any copyrighted, trademarked or patented material, process or software brought to the Project by the Engineer for use in the performance of this contract and/or the accomplishment of the services described in the Scope of Services.

Is hereby amended to read as follows:

TO THE EXTENT ALLOWED BY LAW, THE CONSULTANT AGREES TO INDEMNIFY AND HOLD HARMLESS THE COUNTY, ITS OFFICERS, EMPLOYEES, AND AGENTS FROM LIABILITY, LOSSES, EXPENSES, DEMANDS, REASONABLE ATTORNEYS' FEES, AND CLAIMS FOR BODILY INJURY (INCLUDING DEATH) AND PROPERTY DAMAGE TO THE EXTENT CAUSED BY THE NEGLIGENCE, INTENTIONAL TORT, INTELLECTUAL PROPERTY INFRINGEMENT OF THE CONSULTANT (INCLUDING THE CONSULTANT'S AGENTS, EMPLOYEES, VOLUNTEERS, AND SUBCONTRACTORS/CONSULTANTS UNDER CONTRACT, OR ANY OTHER ENTITY OVER WHICH THE CONSULTANT EXERCISES CONTROL) IN THE PERFORMANCE OF THE SERVICES DEFINED IN THIS AGREEMENT. THE CONSULTANT SHALL ALSO SAVE THE COUNTY HARMLESS FROM AND AGAINST ANY AND ALL EXPENSES, INCLUDING REASONABLE ATTORNEYS' FEES, IN PROPORTION TO THE CONSULTANT'S LIABILITY, THAT MIGHT BE INCURRED BY THE COUNTY, IN LITIGATION OR OTHERWISE RESISTING SUCH CLAIMS OR LIABILITIES.

4.

That Section 17(a) of the Agreement, Delivery of Notices, Etc., which currently reads as follows:

All routine written notices, invoices, change orders, etc. are to be delivered to the Deputy Director of Engineering at the Harris County Toll Road Authority, 7701 Wilshire Place Drive, Houston, Texas 77040, or at such other place or places as the County may designate by written notice delivered to the Engineer.

All formal notices and demands under this Agreement shall be delivered to the Harris County Commissioners Court, 1001 Preston, 9th Floor, Houston, Texas 77002, Attention: Clerk of Commissioners Court, with a copy forwarded to the

Harris County Toll Road Authority, 7701 Wilshire Place Drive, Houston, Texas 77040, Attention: Mr. Gary K. Trietsch, P.E., Executive Director.

Is hereby amended to read as follows:

All routine written notices, invoices, change orders, etc. are to be delivered to the Assistant Director of Maintenance and Construction Engineering at the Harris County Toll Road Authority, 7701 Wilshire Place Drive, Houston, Texas 77040, or at such other place or places as the County may designate by written notice delivered to the Engineer.

All formal notices and demands under this Agreement shall be delivered to the Harris County Commissioners Court, 1001 Preston, 9th Floor, Houston, Texas 77002, Attention: Clerk of Commissioners Court, with a copy forwarded to the Harris County Toll Road Authority, 7701 Wilshire Place Drive, Houston, Texas 77040, Attention: Executive Director.

5.

Paragraph 27, titled "Historically Underutilized Business Requirements," is hereby added to the Agreement, as follows:

27. Historically Underutilized Business Requirements

In accordance with Section 284.007 of the Texas Transportation Code, the County shall make a good faith effort to meet or exceed goals provided under Section 284.007(b) for awarding contracts and subcontracts associated with a project it operates, maintains, or constructs to historically underutilized businesses. For purposes of this section, the term "historically underutilized business" has the meaning given to such term in subsection (d) of Section 284.007, Transportation Code. The Engineer agrees to reasonably assist the County in its efforts to meet or exceed the goals provided under Section 284.007(b) for awarding contracts or subcontracts to historically underutilized businesses.

6.

All other terms and conditions of the original Agreement shall remain in full force and effect as originally written.

APPROVED AS TO FORM:

CHRISTIAN D. MENEFFEE
County Attorney

HARRIS COUNTY

DocuSigned by:
By Marcy Linebarger 3/22/2021
033E7858C064475...
MARCY LINEBARGER
Assistant County Attorney

By _____
LINA HIDALGO
County Judge

Date _____

ENTECH CIVIL ENGINEERS, INC.

DocuSigned by:
By Ovidio N. Alanis
01C0813584054C9...
Name Ovidio N. Alanis
Title Chairman
Date 3/22/2021

ORDER OF COMMISSIONERS COURT
Authorizing First Amendment to Agreement with
Entech Civil Engineers, Inc.

The Commissioners Court of Harris County, Texas, met in regular session at its regular term at the Harris County Administration Building in the City of Houston, Texas, on _____, with all members present except _____.

A quorum was present. Among other business, the following was transacted:

ORDER AUTHORIZING FIRST AMENDMENT TO AGREEMENT WITH ENTECH CIVIL ENGINEERS, INC. TO INCREASE COMPENSATION AND PAYMENT TO BE PAID BY THE COUNTY TO THE ENGINEER FOR ADDITIONAL WORK UNDER THE SCOPE OF SERVICES, REVISE THE INDEMNIFICATION, AMEND THE PROVISION FOR THE DELIVERY OF NOTICES, AND ADD HISTORICALLY UNDERUTILIZED BUSINESS REQUIREMENTS, TO PROVIDE CONSTRUCTION ENGINEERING AND INSPECTION SERVICES IN SUPPORT OF THE CONSTRUCTION OF THE LORRAINE STREET UNDERPASS, INCLUDING A PUMP STATION, UTILITY RELOCATIONS, AND ASSOCIATED DRAINAGE FEATURES, IN CONNECTION WITH THE HARDY TOLL ROAD DOWNTOWN CONNECTOR PROJECT

Commissioner _____ introduced an order and moved that Commissioners Court adopt the order. Commissioner _____ seconded the motion for adoption of the order. The motion, carrying with it the adoption of the order, prevailed by the following vote:

	Yes	No	Abstain
Judge Lina Hidalgo	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Rodney Ellis	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Adrian Garcia	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Tom S. Ramsey, P.E.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. R. Jack Cagle	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The County Judge thereupon announced that the motion had duly and lawfully carried and that the order had been duly and lawfully adopted. The order adopted follows:

IT IS ORDERED that:

1. The Harris County Judge is authorized to execute on behalf of Harris County a First Amendment to Agreement in an amount not to exceed \$2,175,000.00 with Entech Civil Engineers, Inc. to increase Compensation and Payment to be paid by the County to the Engineer for additional work under the Scope of Services, revise the Indemnification, amend the provision for the Delivery of Notices, and add Historically Underutilized Business Requirements, to provide Construction Engineering and Inspection Services in support of the construction of the Lorraine Street Underpass, including a pump station, utility relocations, and associated drainage features, in connection with the Hardy Toll Road Downtown Connector Project. This Amendment is incorporated by reference and made a part of this order for all intents and purposes as though set out in full word for word.
2. All Harris County officials and employees are authorized to do any and all things necessary or convenient to accomplish the purposes of this order.
3. This First Amendment encumbers an additional \$425,000.00 to compensate the Engineer.

