

**MASTER AGREEMENT FOR PROFESSIONAL ENGINEERING AND CONSULTING
SERVICES
(County Flood Warning System)**

the STATE OF TEXAS	§	
	§	KNOW ALL BY THESE PRESENTS:
COUNTY OF LLANO	§	

THIS MASTER AGREEMENT FOR ENGINEERING AND CONSULTING SERVICES ("Agreement") is entered into between **LLANO COUNTY**, a County of the State of Texas ("County") and **Waterway Engineering, PLLC.**, ("Engineer"). In this Agreement, the COUNTY and Engineer are sometimes individually referred to as a "Party" and collectively referred to as the "Parties", each acting through its duly authorized agent.

RECITALS

WHEREAS, the COUNTY desires to retain Engineer to provide professional engineering and consulting services on a "task order" and as-needed basis relating to the planning, design, procurement, construction, installation, and testing of a flood warning system in the County (hereinafter referred to as "Project"); and

WHEREAS, Concho Valley Council of Governments (CVCOG) issued a Request for Qualifications (RFQ No. 26-005-ADMIN) to identify qualified firms capable of assisting participating counties with the development of Flood Early Warning System planning documents and related technical services;

WHEREAS, the COUNTY has agreed to an interlocal cooperative agreement with CVCOG and has approved a resolution authorizing participation in CVCOG contract for SB3; and

WHEREAS, Engineer has agreed to provide such task order professional and engineering services in connection with the development and implementation of the Project in accordance with the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the foregoing premises and the mutual promises and agreements of the Parties contained in this Agreement, the sufficiency of which are hereby acknowledged, the Parties agree as follows:

**I.
SCOPE OF SERVICES**

1.01 Scope of Services.

(a) General Scope of Services. Engineer will provide professional engineering and consulting services to the COUNTY on a "task order" and as-needed basis relating to the planning, design, procurement, construction, installation and testing of the Project in accordance with the terms of this Agreement (the "Services"). The Services may include, but are not limited to, the services identified by the Engineer as Key Tasks in their Statement of Qualifications submitted in response to the Request for Qualifications released by CVCOG (RFQ No. 26-005-ADMIN).

(b) **Task Orders.** The Parties will prepare and execute a detailed "*Task Order*" for individual components of the Project for which the COUNTY desires Services from Engineer. Each Task Order that shall include a detailed description of the Services to be performed by Engineer under the Task Order, the terms of compensation for such Services, a description of deliverables, a delivery schedule and other relevant details relating to such Services. Except as otherwise provided in the Task Order, each Task Order shall be subject to the terms of this Agreement. Each Task Order shall be signed by a representative of the COUNTY (which may be the County Judge or a member of the Commissioners Court) and Engineer before Services commence for the individual task.

(c) Each Task Order shall refer to this Agreement, shall be governed by the terms and provisions hereof, and shall indicate the scope of and include any required data or specifications for the Services to be performed pursuant thereto. Engineer shall not proceed with any phase of any Services prior to the receipt of a written Task Order describing such Services and Engineer's written acceptance of such Task Order. Failure to return the signed Task Order to the COUNTY will result in non-payment of Engineer invoices. Each Task Order will contain a price which will not be exceeded without a written change to the Task Order. In the event Engineer performs any changes, additions or deletions (individually and collectively ("Change(s)"), to any Services required by applicable Task Order, such Changes shall be considered rejected by the COUNTY and shall be at the sole risk of loss to Engineer; provided, however, the COUNTY at any time may authorize in writing or orally followed by written authorization Changes to the Services ("Change Order"). Engineer shall not commence to perform any Changes until such Change Order is properly executed by both parties and returned to Engineer. If the COUNTY orders Engineer to proceed and concludes that no Change Order is warranted and Engineer disagrees, the disagreement shall constitute a dispute and Engineer shall proceed in accordance with the COUNTY's instructions. The dispute shall be resolved in accordance with Article 10 of this Agreement.

1.02 Changes. the COUNTY, within the general scope of this Agreement may, at any time, by written notice to Engineer, issue additional instructions, require additional services or direct the omission of services covered by this Agreement. In such event, there will be made an equitable adjustment in price and/or time of performance, but any claim for such an adjustment must be made within thirty (30) days of the receipt of said written notice.

1.03 Non-Exclusive Agreement. This Agreement is non-exclusive, and the COUNTY may retain other professionals to provide engineering and professional services relating to the Project.

1.04 Time of Performance. Engineer shall not commence Services for any individual phase of the Project prior to execution of the Task Order that authorizes such specific Services to proceed. The individual Task Order shall include a schedule for performance and completion of such Services, including a schedule for any deliverables.

1.05 Local Program Liaison. For purposes of this Agreement, the COUNTY JUDGE of the COUNTY will serve as the Local Program Liaison and primary point of contact for Engineer with respect to the Project. All required progress reports and communication regarding the Project shall be directed to this liaison except as otherwise specified in a Task Order. the COUNTY may identify additional or alternative liaisons at any time by written notice to Engineer.

II. BILLING AND PAYMENT

2.01 Terms of Payment. the COUNTY shall pay Engineer for authorized Services included in a Task Order in accordance with the following terms:

(a) Amount of Compensation. The COUNTY shall pay Engineer for Services performed in connection with each Task Order according to a methodology specified in the Task Order. Each Task Order will provide for compensation on a time and materials basis in accordance with the rates set forth in Attachment A, Fee Schedule. Year One commences at the time this Agreement is executed and continues for 12 months. Each Task Order will include a not to exceed amount for total compensation for the Services that are the subject of the Task Order.

(b) Invoices and Time of Payment. Except as otherwise provided in a Task Order, Engineer will issue monthly invoices to the COUNTY for Services rendered during the preceding calendar month. Each invoice shall specify any eligible expenses for which reimbursement is sought. All invoices shall be submitted in a format, and include all information, required by any applicable laws, regulations and contracts governing such matters, including the requirements of any state or federal agency that provides grant funding to the COUNTY for the Project. Invoices for undisputed Services are due and payable within forty-five (45) days of receipt.

(c) Interest. The COUNTY will be charged interest at the rate of 1-1/2% per month, or that permitted by law if lesser, on all past-due undisputed amounts starting forty-five (45) days after receipt of an invoice for completed Services by the COUNTY.

(d) Compliance with State and Federal Grant Program Requirements. Except as specifically authorized by the COUNTY in writing, the COUNTY shall be liable for payment to Engineer only for Services performed and expenditures made in compliance with the applicable state and federal cost principles and applicable administrative requirements set forth in the UGMS of the State of Texas or applicable federal regulation.

2.02 Reimbursement of Expenses. Except as otherwise provided in a Task Order, the COUNTY shall reimburse Engineer for eligible expenses that consist of the Engineer's actual reasonable and necessary expenses incurred to accomplish the Services authorized in the Task Order. Reimbursable items may include costs of prints and reproduction of drawings and other documents, cost of digital scanning, approved hotel, approved airfare, approved vehicle rental and meals. Each Task Order will specify allowable reimbursable expenses associated with the Services that are the subject of the Task Order. As required by any grant funding authority or by the COUNTY, Engineer shall provide documentation to substantiate any expenses for which it seeks reimbursement in accordance with this Agreement and a Task Order.

2.03 Grant Funding Matters.

(a) General. The following terms and limitations shall apply to any payments by the COUNTY to Engineer for Services that are to be funded with federal or state grant monies:

(i) Except as otherwise set forth in a Task Order, the COUNTY shall not pay Engineer for Services performed, or reimburse Engineer for expenses, that are not eligible for funding or reimbursement under any contract with the applicable grant funding authority. If it is determined by either the COUNTY or the grant funding authority after payment by the COUNTY to Engineer that the Services or expenses for which payment has been made were not eligible for grant funding, the COUNTY shall request return and reimbursement of those funds from Engineer or, where appropriate, the application of those payments to other Services or reimbursable expenses that are eligible for funding. the COUNTY shall not provide any additional compensation or reimbursements to Engineer under the Task Order until the funds are returned or are applied to eligible authorized Services or expenses. Engineer shall return funds paid by the COUNTY for non-eligible Services or non-reimbursable costs or expenses within 30 days of

receipt of a request from the COUNTY. Nothing in this paragraph shall be construed to limit Engineer's rights and remedies available under this Agreement.

(ii) The Parties agree that if a Task Order specifies that Services and expenses will not be funded with grant monies, then the COUNTY shall be responsible for payment in accordance with the terms of the Task Order.

(iii) Except as otherwise set forth in a Task Order, reimbursement and payment to Engineer will be subject to the receipt by the COUNTY of funds from and approval by the grant funding authority.

(b) Federal Funding. Funding for Services to be rendered by Engineer under this Agreement has not been appropriated as of its execution, however an executive Order for a Presidentially-declared major disaster areas under Title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) has been issued, therefore federal funding may become available during the term of this Agreement. All Services to be funded with federal monies must be made in accordance with the rules and regulations promulgated under the associated federal program and any other applicable laws. Further, Engineer acknowledges that all funds are subject to recapture and repayment for non-compliance.

(c) State Funding. In connection with any Services to be funded with state grant funding (including TWDB), this Agreement shall not be construed as creating any debt on behalf of the State of Texas and/or the TWDB in violation of Article III, Section 49, of the Texas Constitution. In compliance with Article VIII, Section 6 of the Texas Constitution, it is understood that all obligations of the TWDB, including providing grant funding for Services to be rendered by Engineer, are subject to the availability of state funds. If such funds are not appropriated or become unavailable for Services to be paid with state and/or TWDB grant funding, the COUNTY, in its own sole discretion, may terminate this Agreement (or the Task Orders to be funded with such funding). In that event, the Parties shall be discharged from further obligations with respect to the Agreement or Task Order, as applicable, subject to the equitable settlement of their respective interests, accrued up to the date of termination.

(d) Recapture of Funds. It is expressly understood and agreed by Engineer that the COUNTY shall have the right to terminate the Agreement and to recapture, and be reimbursed for any payments made by the COUNTY (i) that exceed the maximum amount payable for the Services or expenses allowable by TWDB or any other grant funding jurisdiction applicable to the Services; (ii) that are not allowed under applicable laws, rules, and regulations; or (iii) that are otherwise inconsistent with this Agreement, including any unapproved Services or expenditures.

(e) Overpayment. Engineer understands and agrees that it shall be liable to the COUNTY and any state or federal funding authority for any costs disallowed pursuant to financial and/or compliance audits(s) of payments made by the COUNTY to Engineer under this Agreement.

2.04 Disputed Invoices. In the event of a disputed billing, only the disputed portion will be withheld from payment, and the COUNTY shall pay the undisputed portion. The COUNTY will exercise reasonableness in disputing any bill or portion thereof. No interest will accrue on any disputed portion of the billing until mutually resolved.

2.05 Suspension of Services. If the COUNTY fails to make payment in full within 30 days of the date due for any undisputed billing, Engineer may, after giving seven (7) days written notice to the COUNTY, suspend Services under this Agreement until paid in full, including interest. In the event of suspension of Services, Engineer will have no liability to the COUNTY for delays or damages caused by the COUNTY because of such suspension.

III.

OBLIGATIONS, REPRESENTATIONS AND WARRANTIES OF ENGINEER

3.01 Standard of Care. The standard of care applicable to the performance of the Services by Engineer will be the degree of skill and diligence normally employed by qualified engineer of the same profession performing the same or similar services at the time said Services are performed at the same or similar location. Engineer will re-perform any Services not meeting this standard without additional compensation.

3.02 Compliance with All Applicable State and Federal Requirements. Engineer shall undertake all Services in accordance with all state and federal requirements applicable thereto, including all applicable laws, regulations and contract requirements relating to approval and administration of grant funding. All such applicable requirements are hereby incorporated by reference and shall govern the Services. Notwithstanding the foregoing, each Task Order may identify specific state or federal requirements applicable to the individual Services that are the subject of the Task Order.

3.03 Representations and Warranties of Engineer. To induce the COUNTY to enter into this Agreement and to consummate the transactions contemplated by this Agreement, Engineer represents and warrants as follows:

(a) Engineer possesses all skills necessary to perform his obligations under each Task Order and is competent to perform such obligations;

(b) Any non-confidential information relating to the COUNTY, its officers and employees acquired by Engineer in connection with the Services shall be furnished to third parties only to the extent reasonably necessary or prudent in connection with performing the Services and for no other reason; and

(c) Engineer shall not transmit any of the COUNTY information or records to any non-COUNTY computer or electronic device, and all such information and records acquired by Engineer in connection with the Services, whether confidential or not, shall be returned to the COUNTY immediately upon termination of this Agreement.

(d) The Key Team Professionals of the Engineer and their subconsultants described in the Statement of Qualifications are designated as Key Personnel for the duration of this Agreement. The Engineer shall not remove or replace Key Personnel without fifteen (15) days prior written notice to the COUNTY and written consent from the COUNTY. Replacements must have equal or superior qualifications and no changes to agreed upon rates shall occur as a result of Key Personnel replacement.

The terms of this Section 3.03 (a) - (c) shall survive the expiration or termination of this Agreement.

3.04 Personnel Matters

(a) Engineer represents that it has, or will secure at its own expense, all personnel required in performing the services under this Agreement. Such personnel shall not be employees of or have any contractual relationship with the COUNTY.

(b) All of the Services required hereunder will be performed by Engineer or under its supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under state and local law to perform such Services.

(c) None of the work or services covered by this Agreement shall be subcontracted without the prior written approval of the COUNTY. Any work or services subcontracted hereunder shall be specified by written contract or agreement and shall be subject to each provision of this Agreement.

3.05 Taxes. The COUNTY shall not be responsible for, and shall not withhold or pay any federal, state or local income tax, nor payroll tax of any kind, on behalf of Engineer. Engineer shall be responsible for the filing and payment of all income related taxes associated with Engineer. Engineer shall not be treated as an employee with respect to the services performed hereunder for federal or state tax purposes, and agrees to indemnify and hold harmless the COUNTY against any and all liability should Engineer be considered an employee of the COUNTY by any governmental agency.

3.06 Equipment, Tools, Materials or Supplies. Except as otherwise specified in a Task Order or furnished by the COUNTY in its sole discretion, Engineer shall supply, at Engineer's sole expense, all equipment, tools, materials and/or supplies necessary for the provision of the Services under this Agreement.

3.07 Fringe Benefits/Workers' Compensation. Engineer, as one engaged in its own independently established business, is not eligible for, and shall not participate in, any employee pension, health, or other fringe benefit plans of the COUNTY. the COUNTY is not responsible for, and is not required to provide, workers' compensation insurance for Engineer. At the COUNTY's election, it may add Engineer as an additional covered party under any or all of the COUNTY's risk pool coverages.

3.08 Unemployment Tax. Engineer understands that the COUNTY shall not be making contributions on its behalf for unemployment compensation, and agrees to make whatever contributions are required of it as an employer.

3.09 Permits and Authorizations. Engineer shall procure and maintain for the duration of this Agreement any state, city, or federal license, authorization, insurance, waiver, permit, qualification or certification required by statute, ordinance, law, or regulation to be held by Engineer to provide the Services to be performed under this Agreement. Engineer will be responsible for payment of all taxes, assessments, fees, premiums, permits, and licenses required by law. Engineer agrees to be responsible for payment of any such government obligations not paid by its subcontractors during performance of the Agreement.

3.10 INDEMNIFICATION. ENGINEER SHALL COMPLY WITH THE REQUIREMENTS OF ALL APPLICABLE LAWS, RULES AND REGULATIONS GOVERNING THE SERVICES, AND AGREES TO INDEMNIFY, SAVE AND HOLD HARMLESS THE COUNTY AND THE COUNTY'S BOARD MEMBERS, AND EMPLOYEES, FROM AND AGAINST CLAIMS, SUITS, ACTIONS, JUDGMENTS, LIABILITIES, DAMAGES, LOSSES, EXPENSES, AND REASONABLE ATTORNEY FEES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ONLY TO THE EXTENT CAUSED BY THE NEGLIGENT ERRORS, ACTS, OR OMISSIONS OF THE ENGINEER AND ITS SUBCONSULTANTS, OR FAILURE TO COMPLY WITH ALL APPLICABLE REQUIREMENTS GOVERNING THE PERFORMANCE OF THE SERVICES, INCLUDING ENGINEER'S FAILURE TO COMPLY WITH THE REQUIREMENTS OF ANY GRANT FUNDING AUTHORITY.

IV. INSURANCE MATTERS

4.01 Insurance.

(a) General. As an independent contractor, Engineer acknowledges that it is solely responsible for providing its own insurance coverage, including, but not limited to, unemployment compensation and workers' compensation to its employees, and that such coverage shall be maintained by Engineer in the statutory limits which are presently in effect or which may be in effect in each of the applicable jurisdictions where Engineer will perform the Work.

(b) Required Insurance Coverages.

(i) Without limiting the foregoing, Engineer shall, at Engineer's sole cost and expense, maintain the following insurance with insurers satisfactory to the COUNTY and with limits no less than those stated as follows:

- 1) Statutory Workers Compensation Insurance (statutory coverage) and Employer's Liability insurance with limits of not less than \$500,000 per occurrence.
- 2) Commercial General Liability insurance providing coverage against liability arising out of or based on act, error or omission of Engineer under this Agreement, with limits of not less than \$1,000,000 for each occurrence of bodily injury and property damage liability, \$1,000,000 general aggregate and products/completed operations coverage.
- 3) Business Automobile Liability insurance with a limit of not less than \$1,000,000 per occurrence for bodily injury and property damage liability written to cover all owned, hired and non-owned automobiles arising out of the use thereof by or on behalf of the Engineer.
- 4) Professional liability insurance of \$1,000,000 per occurrence.

(ii) All policies, except Professional Liability, shall include a waiver of subrogation in favor of the COUNTY, the State of Texas, the funding agency, and their officers, employees, and authorized agents, and shall be issued by insurance companies authorized to do business in the State of Texas, and currently rated by A.M. Best as "A-" or better. All policies shall require at least thirty (30) days prior written notice to the COUNTY of any intention to cancel, terminate or reduce coverage provided thereby, except 10 days' notice of cancellation due to nonpayment.

(iii) In the event Engineer subcontracts the performance of any Services to subcontractors, the subcontractor shall be required to maintain the minimum types and amounts of insurance specified herein, and shall furnish a Certificate of Insurance to the COUNTY in accordance with the requirements of Section 4.02 below.

(iv) The COUNTY may require additional levels or types of insurance for individual Services performed by Engineer. In such an event, the additional levels or types of insurance governing the Services shall be specified in the Task Order. Any additional coverage required by the COUNTY will be at the cost of the COUNTY.

4.02 Certificate of Insurance. Prior to the commencement of Services, Engineer shall furnish to the COUNTY a Certificate of Insurance, endorsements, or evidence of coverage signed by authorized representatives of the companies providing the coverage required under the terms of the Agreement.

4.03 Failure to Secure or Maintain Insurance. Failure to secure and maintain the insurance coverages, or the failure to comply fully with any of the insurance provisions of the Agreement as may be necessary to carry out the terms and provisions of the Agreement for so long as it remains in effect, shall be deemed to be a material breach of the Agreement. The lack of insurance coverage does not reduce or limit Engineer's responsibility to indemnify the COUNTY as set forth in the Agreement.

4.04 Review by the COUNTY. the COUNTY reserves the right at all times to review and confirm Engineer and its subcontractors maintain the required insurance coverages specified herein. Any failure of the COUNTY to timely approve or failure to disapprove the insurance furnished by Engineer or its subcontractors shall not relieve Engineer of Engineer's or subcontractor's responsibility to secure and maintain the insurance required by this Agreement.

4.05 Duration of Coverage. Unless specified otherwise in a Task Order, the required insurance shall be in effect prior to the commencement of Services by Engineer and shall continue in full force until the earlier as appropriate of (i) the expiration of this Agreement; or (ii) such time as the COUNTY notifies Engineer that such insurance is no longer required. Engineer shall provide the COUNTY with renewal or replacement certificates no less than thirty (30) days before the expiration or replacement of the required insurance.

4.06 Primary Insurance. Any insurance or self-insurance available to the COUNTY shall be in excess of, and non-contributing with, any insurance required by the COUNTY from Engineer. Engineer's insurance policies shall apply on a primary basis, except professional liability and workers compensation.

4.07 Notification. If, at any time during the term of this Agreement, an insurer or surety fails to provide insurance to Engineer or otherwise fails to comply with the requirements of this Agreement, Engineer shall immediately notify the COUNTY and replace such insurance meeting such requirements.

4.08 Additional Insureds. the COUNTY, the funding entity, and each entity's officers, employees, and authorized agents shall be named as additional insureds for all insurance coverages secured by Engineer except on Workers' Compensation and Professional Liability policies. **An original additional insured endorsement signed by an authorized insurance company representative must be submitted to the COUNTY to evidence the endorsement of the COUNTY as an additional insured on all policies.**

V. RESPONSIBILITIES OF THE COUNTY

5.01 The COUNTY, at its own expense, will:

(a) Provide all criteria and full information as to the COUNTY's requirements for the Project and will make available to Engineer all information, documents and assistance necessary or reasonably requested by Engineer in order to enable it to perform the Services in a timely manner, all of which Engineer shall be entitled to rely upon without independent verification.

(b) Make decisions, provide approvals and obtain all necessary authorizations, licenses and permits required in order to permit the timely performance of the Services, notify Engineer if it becomes aware of any matter that may change the scope, timing, order or complexity of the Services, and act reasonably, professionally and in good faith in all respects in connection with the Agreement.

(c) Upon request by Engineer, furnish Engineer with copies of all existing data, reports, surveys, plans and other materials and information, within the possession of the COUNTY, required for the Project, all of which Engineer may use and rely upon in performing its services under this Agreement.

(d) Arrange for access to and make all provisions for Engineer to enter upon public and private property as required for Engineer to perform its services.

(e) Be responsible for locating existing underground or covered site utilities, pipelines, tanks and other structures prior to the installation of borings, wells or excavations and be responsible for all claims, liabilities and damages resulting from the failure to accurately to locate same. The COUNTY shall review all boring, well and excavation locations prior to installation and shall direct that they be relocated if any conflict exists with any underground utilities, tanks or other structures.

(f) Provide a description of activities which were conducted at the site at any time by the COUNTY or by any person or entity which would relate to the services and identify by name, quantity, location and date any releases of hazardous substances or pollutants.

(g) Give prompt written notice to Engineer whenever the COUNTY observes or otherwise becomes aware of any development that affects the scope or timing of Engineer's services or any alleged defect in Engineer's services.

(h) Designate an individual or individuals to act as the COUNTY's representative(s) with respect to the services to be rendered under this Agreement. Said individual(s) shall each have complete authority to transmit instructions, receive information and interpret and define the COUNTY's requirements, decisions, policies, drawings, plans, surveys, data and reports.

(i) To the extent required by law, promptly report all regulated conditions, including, without limitation, the discovery of releases of hazardous substances at the site to the appropriate authorities in accordance with applicable law.

(j) Assume responsibility for unavoidable damage or alteration to the site caused by Engineer's services.

(k) Assume responsibility for personal injuries and property damage caused by Engineer's interference with subterranean structures such as pipes, tanks and utility lines that are not disclosed to or are not accurately disclosed to Engineer by the COUNTY in advance.

(l) The COUNTY shall be solely responsible for the health, safety and welfare of its employees and agents and others with regard to the Work, and shall strictly comply with all health and safety rules, including but not limited to Engineer's Injury, Illness and Prevention Program or applicable guidance which may be provided by Engineer, and all other applicable rules, regulations and guidance required by Engineer, the COUNTY or applicable government agencies relating to the Work. the COUNTY is solely responsible for establishing and enforcing any additional requirements that the COUNTY deems necessary to protect its employees, Engineer's employees, and any other persons entering the site for purposes relating to the COUNTY's operations.

VI. RECORDS AND AUDITS

6.01 Records and Audits. Engineer shall prepare and furnish documentation to the COUNTY relating to all Services performed and compensation in accordance with all applicable federal and state

regulations governing the Services; and in accordance with the requirements of any grant funding authority, including, as applicable, 2 CFR 200.300-.309, 24 CFR 570.490. The Engineer shall retain such records, and any supporting documentation, for the greater of three years from closeout of the Project or the period required by other applicable laws and regulations, or grant funding authorities.

6.02 Reporting Requirements. Engineer shall assist the COUNTY to timely submit all reports and documentation that are applicable to the Services.

6.03 Reports and Information. Engineer, at such times and in such forms as the COUNTY may require, shall furnish the COUNTY such periodic reports as it may request pertaining to the Services undertaken pursuant to this Agreement, the costs and obligations incurred or to be incurred in connection therewith, and any other matters covered by this Agreement.

6.04 Monthly Reports. Engineer shall provide monthly reports to the COUNTY for all Services rendered. Each monthly report shall include progress made since the prior period, current benchmarks achieved, problems encountered, goals to be accomplished in the subsequent reporting period or any other information required by the COUNTY or the grant funding authority. the COUNTY may defer to the monthly report format specified by any firm with whom the COUNTY contracts for grant administration services.

6.05 Public Records. Information related to the performance of this Agreement may be subject to the Public Information Act ("PIA") and will be withheld from public disclosure or released only in accordance therewith. Engineer shall make any information required under the PIA available to the COUNTY in portable document file (".PDF") format or any other format agreed between the parties. Failure of Engineer to mark as "confidential" or a "trade secret" any information that it believes to be excepted from disclosure waives any and all claims Engineer may make against the COUNTY for releasing such information without prior notice to Engineer. Engineer shall notify the COUNTY within twenty-four (24) hours of receipt of any third party written requests for information, and forward a copy of said written requests to the COUNTY. If the request was not written, Engineer shall forward the third party's contact information to the COUNTY.

6.06 No Copyright. No report, maps, or other documents produced by Engineer in whole or in part under this Agreement shall be the subject of an application for copyright by or on behalf of the Engineer.

6.07 Ownership of Work Product. Upon payment in full, all documents, reports and other work products of the Engineer prepared in connection with or arising out of the Services, excluding the Engineers standard details, schedules, and specifications, whether in hard copy or non-editable electronic form, shall be owned by the COUNTY. the COUNTY shall be solely responsible for any reuse, change or alteration to such work product by the COUNTY or third parties. Engineer grants the COUNTY perpetual license to utilize such standard details, schedules, and specifications.

(a) Under no circumstance will any license fee, royalty, or other consideration be due or payable to Engineer for any work product generated in connection with the performance of the Services.

(b) Prior to distributing any work product to any third party for other than its intended use, the Parties shall advise such third parties that if it changes such work product or utilizes it other than for its intended use, the third party does so entirely at its own risk without liability to the Engineer or the COUNTY.

VII.

CONFLICTS OF INTEREST

7.01 Governing Body. Engineer hereby covenants that for the duration of this Agreement, it shall not allow any member of the governing body of the COUNTY and no other officer, employee, or agent of the COUNTY, who exercises any functions or responsibilities in connection with administration, construction, engineering, or implementation of the Services or Project, to have any personal financial interest, direct or indirect, in the Engineer or in this Agreement.

7.02 Local Public Officials. Engineer hereby covenants that for the duration of this Agreement, it shall not allow any other public official who exercises any functions or responsibilities in connection with the planning and carrying out of administration, construction, engineering or implementation of the Project, to have any personal financial interest, direct or indirect, in Engineer or in this Agreement.

VIII. CONFIDENTIAL INFORMATION

8.01 Confidential Information. During the performance of the Services, Engineer (or its subcontractors) may have access to and become familiar with various information belonging to the COUNTY that may be excepted from disclosure under the Texas Public Information Act (collectively, the "Confidential Information"), which are acquired, developed and/or used by the COUNTY. Engineer acknowledges and agrees all Confidential Information is and will remain the property of the COUNTY.

8.02 Use or Disclosure of Confidential Information. Engineer agrees it (and its subcontractors) shall not use in any way or disclose any of the COUNTY's Confidential Information, either directly or indirectly, either during the term of this Agreement or at any time thereafter, except as required in the course of performance under this Agreement, to the extent such Confidential Information is publicly known, or as required by law. All files, records, documents, information, data, and similar items relating to the business of the COUNTY, whether prepared by Engineer or otherwise coming into its possession, shall remain the exclusive property of the COUNTY and shall not be removed from the premises of the COUNTY under any circumstances without the prior written permission of the COUNTY (except in the ordinary course of business during this Agreement), and in any event shall be promptly delivered to the COUNTY (without Engineer retaining any copies) upon termination of this Agreement.

8.03 Findings Confidential. All of the reports, information, data, etc., prepared or assembled by the Engineer under this contract are confidential and the Engineer agrees that they shall not be made available to any individual or organization without the prior written approval of the COUNTY.

8.04 Enforcement. In the event Engineer breaches, or threatens to breach, this Article IV, the COUNTY shall be entitled, among other remedies, to injunctive relief prohibiting the Engineer from disclosing such information as well as monetary damages.

8.05 Survival. The terms of this Article IV shall survive termination of this Agreement.

IX. TERM AND TERMINATION

9.01 Term. This Agreement shall be effective as of the date of execution by the Parties and shall remain in effect for a period of two years commencing as of the Effective Date (the "*Initial Term*"). Additionally, the Agreement shall remain in effect as to any Services performed under any Task Order that is not completed prior to expiration of the Initial Term. The Parties may extend the term of this Agreement by mutual written approval. In connection with any extension of the term of this Agreement, the Parties

shall also agree upon the rates applicable to Services rendered by Consultant under Task Orders executed during the extension period.

9.02 Termination.

(a) Either Party may terminate this Agreement by providing written notice to the other Party in the event of breach by the non-defaulting party. Otherwise, the COUNTY may terminate this Agreement without cause upon the provision of not less than thirty (30) days written notice of termination. In the event of termination by the COUNTY and except as otherwise provided in the COUNTY's notice of termination, Engineer shall immediately cease the performance of all Services under all Task Orders then in effect. Within thirty (30) days after receipt of such notice, Engineer shall provide an invoice identifying all authorized Services completed by Engineer prior to receipt of the notice of termination, and the COUNTY shall pay for all such authorized and completed Services performed by Engineer. Engineer may terminate this Agreement without cause by providing written notice of termination to the COUNTY but except as otherwise agreed by the COUNTY, the effective date of termination shall be the date of completion of all Services under all Task Orders then in effect.

(b) In the event of termination, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports prepared by Engineer pursuant to this Agreement shall, at the option of the COUNTY, be turned over to the COUNTY and become the property of the COUNTY.

(c) In the event of termination for cause by the COUNTY, Engineer shall not be relieved of liability to the COUNTY for damages sustained by the COUNTY by virtue of any breach of the Agreement by Engineer, and the COUNTY may set-off the damages it incurred as a result of Engineer's breach of the contract from any amounts it might otherwise owe Engineer.

X.

LIABILITY AND DISPUTE RESOLUTION

10.01 Dispute Resolution. In the event of any dispute, claim, question, or disagreement arising from or relating to this Agreement, or the breach thereof, including determination of responsibility for any costs disallowed as a result of non-compliance with federal, or state program requirements, the Parties hereto shall use their best efforts to settle the dispute, claim, question or disagreement. To this effect, the Parties shall consult and negotiate with each other in good faith within 30 days of receipt of a written notice of the dispute or invitation to negotiate, and attempt to reach a just and equitable solution satisfactory to both parties. If the matter is not resolved by negotiation within 30 days of receipt of written notice or invitation to negotiate, the parties agree first to try in good faith to settle the matter by mediation administered by the American Arbitration Association under its Commercial Mediation Procedures before resorting to arbitration, litigation, or some other dispute resolution procedure. The parties may enter into a written amendment to this Agreement and choose a mediator that is not affiliated with the American Arbitration Association. The parties shall bear the costs of such mediation equally. If the matter is not resolved through such mediation within 60 days of the initiation of that procedure, either party may proceed to file suit.

10.02 Waiver of Consequential Damages. To the extent allowed by law, the Parties waive their rights to any and all claims against each other for incidental, special, indirect or consequential damages of any nature whatsoever, including but not limited to loss of use, lost profits, economic loss, delay, liquated damages or business interruption type damages arising out of or in any way related to the Services or Work, from any cause or causes, including but not limited to joint and several liability or strict liability and whether arising in contract, warranty, tort, negligence (including strict liability) or otherwise and no matter how claimed, computed or characterized.

XI. MISCELLANEOUS PROVISIONS

11.01 Notices. All notices hereunder from Engineer to the COUNTY will be sufficient if sent by secured email, or certified mail with confirmation of delivery, or hand-delivered, addressed to the COUNTY to the attention of COUNTY JUDGE, 500 E. Wallace, Suite 201, Llano, TX 76877. All notices hereunder from the COUNTY to Engineer will be sufficiently given if sent by secured email to Engineer at mpantell@waterwayeng.com or certified mail to Michael Pantell, Waterway Engineering, PLLC, 3523 Yucca Dr Suite 200 Flower Mound, Texas 75028. The address for delivery of notice may be changed by either party by providing not less than five (5) days prior written notice thereof to the other parties.

11.02 Governing Law. The laws of the State of Texas shall govern all disputes arising out of or relating to this Agreement. The parties acknowledge that venue is proper in Llano County, Texas for all legal actions or proceedings arising out of or relating to this Agreement and waive the right to sue or be sued elsewhere. Nothing in the Agreement shall be construed to waive the COUNTY's sovereign immunity.

11.03 Entire Agreement and Amendments. This Agreement represents the entire Agreement between the COUNTY and Engineer with respect to the subject matter of this Agreement. This Agreement supersedes or replaces any prior agreement or understanding with respect to that subject matter between Engineer and the COUNTY. This Agreement may not be amended except in a writing signed by the party against whom such amendment is to be enforced.

11.04 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns where permitted by this Agreement.

11.05 Enforceability. In any case one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such provision shall be modified to the minimum extent necessary to make such provision valid and enforceable, and the remaining provisions shall be affected thereby to the least extent possible.

(a) The failure of any party to enforce any provision of this Agreement shall not be construed as a waiver or limitation of that party's right to subsequently enforce that or any other provision of the Agreement.

(b) If any action at law or in equity is necessary to enforce or interpret the terms of this Agreement, each party shall be responsible for their own attorney's fees, costs, and necessary disbursements.

11.06 Assignment. Engineer shall not assign any interest or right on this Agreement, and shall not transfer any interest in the same (whether by assignment or novation), without the prior written consent of the COUNTY thereto.

11.07 Independent Contractor. Engineer is an independent contractor and, as such, is not an employee, partner, joint venture, or agent of the COUNTY. Engineer understands and agrees that Engineer will not be entitled to any benefits generally available to the COUNTY's employees.

11.08 Counterparts; Effect of Partial Execution. This Agreement may be executed simultaneously in multiple counterparts, each of which will be deemed an original, but all of which will constitute the same instrument.

11.09 Severability. If any of the provisions of this Agreement are determined to be invalid or

unenforceable, such invalidity or unenforceability will not invalidate or render unenforceable the remainder of this Agreement, but rather the entire Agreement will be construed as if not containing the particular invalid or unenforceable provision or provisions, and the rights and obligations of the parties will be construed and enforced accordingly.

11.10 Authority. Each Party represents and warrants that it has the full right, power and authority to execute this Agreement.

11.11 Additional Requirements.

(a) **Representations.** Engineer makes the following representations and covenants pursuant to Chapters 2252, 2271, 2274, and 2276, Texas Government Code, as heretofore amended (the “Government Code”), with respect to this Agreement. As used in such verifications, “affiliate” means an entity that controls, is controlled by, or is under common control with Engineer within the meaning of Securities and Exchange Commission Rule 405, 17 C.F.R. § 230.405, and exists to make a profit. Liability for breach of any such verification during the term of this Agreement shall survive until barred by the applicable statute of limitations, and shall not be liquidated or otherwise limited by any provision of this Agreement, notwithstanding anything in this Agreement to the contrary.

(i) **Not a Sanctioned Company.** Engineer represents that neither Engineer, nor any parent company, wholly- or majority-owned subsidiaries, and other affiliates of Engineer is a company identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Government Code. The foregoing representation excludes Engineer and each parent company, wholly- or majority-owned subsidiaries, and other affiliates of Engineer, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization.

(ii) **No Boycott of Israel.** Engineer hereby verifies that Engineer and any parent company, wholly- or majority-owned subsidiaries, and other affiliates of Engineer, if any, do not boycott Israel and will not boycott Israel during the term of this Agreement. As used in the foregoing verification, “boycott Israel” has the meaning provided in Section 2271.001, Government Code.

(iii) **No Discrimination Against Firearm Entities.** Engineer hereby verifies that Engineer and any parent company, wholly- or majority-owned subsidiaries, and other affiliates of Engineer, if any, do 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 this Agreement. As used in the foregoing verification, “discriminate against a firearm entity or firearm trade association” has the meaning provided in Section 2274.001(3), Government Code. “Firearm entity” and “firearm trade association” have the meanings provided in Section 2274.001(6) and (7) of the Texas Government Code.

(iv) **No Boycott of Energy Companies.** Engineer hereby verifies that Engineer and any parent company, wholly- or majority-owned subsidiaries, and other affiliates of Engineer, if any, do not boycott energy companies and will not boycott energy companies during the term of this Agreement. As used in the foregoing verification, “boycott energy companies” has the meaning provided in Section 2276.001(1), Government Code.

(b) **Disclosure of Interested Parties.** Engineer acknowledges that Texas Government Code Section 2252.908 (“Section 2252.908”) requires business entities entering into a contract with a local government entity such as the COUNTY to complete a FORM 1295 promulgated by the TEC (which is available on the TEC website at <https://www.ethics.state.tx.us/forms/1295.pdf>) and to file it electronically

with the TEC before the time the business entity executes and submits the contract to the local governmental entity. Engineer confirms that it has reviewed Section 2252.908, electronically filed a FORM 1295 with the TEC, and has provided the COUNTY with a completed FORM 1295 and certification of filing generated by the TEC's electronic filing application, as required by Section 2252.908. Engineer and the COUNTY understand and agree that, with the exception of information identifying the COUNTY and the contract identification number, neither the COUNTY nor its Engineers are responsible for the information contained in the FORM 1295; that the information contained in the FORM 1295 has been provided solely by Engineer; and neither the COUNTY nor its Engineers have verified such information.

(c) Certification Regarding Lobbying. Engineer shall provide certifications regarding lobbying activities as required by the COUNTY or as may be required by any state or federal grant funding authority, and Engineer shall not engage in any lobbying that is prohibited by state or federal laws relating to grant funding applicable to the Project.

(d) Conflict of Interest Certification. Engineer acknowledges that Texas Local Government Code Chapter 176 requires a vendor that seeks to or enters into a contract with a local governmental entity to file a conflicts of interest questionnaire if the vendor: (i) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer; (ii) has given a local government officer, or a family member of the officer, one or more gifts that exceed certain values; (iii) has a family relationship with a local government officer. Similarly, the Texas Penal Code prohibits the acceptance any benefit as consideration for a decision, opinion, recommendation, vote, or other exercise of discretion by a public servant. By execution of this Amendment, Engineer certifies as follows: (i) it has fully complied with the applicable requirements of Chapter 176 of the Texas Local Government Code; (ii) it has not provided any gift, payment or other benefit to any director or employee of the COUNTY; and (iii) each has no other conflict of interest with the COUNTY, or any director or employee of the COUNTY.

IN WITNESSETH WHEREOF, the parties have executed this Agreement by Causing the same to be signed on the day and year first above written.

COUNTY:

By: Rob T. Hardy
Printed Name: Rob T. Hardy
Title: County Judge
Date: July 13, 2026

ENGINEER:

Waterway Engineering, PLLC.

By: _____
Printed Name: Michael Pantell, P.E., CFM
Title: Principal
Date: _____

SB3 Proposed Planning Project Estimate

For Llano County

Overview

The County proposes to undertake detailed planning activities to develop the parameters of a comprehensive flood warning siren system as required by Senate Bill 3 (SB 3, 89th Legislature, 2nd Called Session) and in accordance with the Texas Water Development Board (TWDB) Flash Flood Warning Siren Guide, proposed rules under 31 TAC Chapter 378, and related guidance. This planning project will assess risks, define system design, identify optimal locations, establish operational protocols, and recommend partnerships to ensure effective installation, operation, and long-term maintenance of the system in flash flood-prone areas. The plan will provide a siren system that covers the areas that the TWDB considers to be "Flash Flood Prone" per SB3 requirements

The proposed planning project activities will consist of the following:

1. Refine the Provisional Flash Flood Risk Area (PFFRA) provided by the TWDB
2. Assess the existing flood monitoring and warning infrastructure and data available for the County
3. Develop flood modeling to assist in determining general gage and siren locations and appropriate siren triggers
4. Support contracting with a gaging and siren vendor(s) capable of providing appropriate equipment, performing siren acoustic modeling, and installing and testing the system components, and integrating with third party emergency notification services
5. Coordinate site civil design, access agreements and/or easements, and permitting with the gaging and siren vendors to finalize equipment locations
6. Develop an operations and maintenance plan in coordination with equipment vendor(s), emergency managers and law enforcement.
7. Develop a public outreach plan to be implemented during post-planning project phase
8. Develop an outdoor warning siren System Master Plan Report that details all plan information

Some of the proposed planning activities will occur simultaneously. Please see the proposed schedule for the details. The following scope of work provides details of the Planning Project necessary to satisfy the SB3 requirements. The scope provided conforms to the TWDB Planning Project template.

Scope

Task 1: Project Management

This task includes project management tasks for the length of the planning phase. This will include regular meetings with stakeholders as well as grant coordination and compliance.

Task 2: Initial Project Activities

Task 2a: Provisional Flash Flood Risk Area Refinement

The purpose of this task will be to refine the areas that the TWDB have identified are flash flood prone and result in a risk of loss of life and property. Data from the TWDB will be obtained and refined using planning level flood modeling (if warranted), higher resolution data and local knowledge. This task will require refinement of the data and detailed review of areas identified as requiring a siren. It is expected that the County will provide feedback for areas to assist with refinement. The revised map will be provided to TWDB for initial review to confirm that they will accept the revisions. Final acceptance will require TWDB Board adoption.

The results of this task will be a refined map of areas that the County and municipalities will be required to provide siren coverage.

Task Assumptions

- County and local stakeholders to provide feedback

Task Deliverables

- Final map of flash flood prone areas

Task 2b: Assess Existing Infrastructure & Data

The purpose of this task is to assess the existing flood monitoring and warning infrastructure and data for the purposes of meeting SB3 requirements. This task will include:

- Determine location, type, and reliability of existing stage gages
- Determine location, type, and reliability of existing rainfall gages
- Determine location, type, and reliability of existing sirens to meet SB3 requirements
- Determine availability and quality of existing hydrologic and hydraulic modeling data

Once the data is compiled and reviewed, gaps in coverage and data will be identified.

Task Assumptions

- County to provide existing data and information as available

Task Deliverables

- Summary of existing information

Task 2c: Initial Siren Vendor Procurement

The purpose of this task will be to determine the most appropriate gage and siren vendor(s) who will be responsible for implementing the system and the method of procurement. The siren vendor will be responsible for performing the sound analysis necessary to determine initial siren placement. This will include recommending siren equipment that will meet all SB3 requirements and providing the technical documentation necessary to verify. Vendor(s) will provide estimates of costs but procurement will not be finalized until after confirmation of plan with TWDB and initial site civil activates to finalize site placement.

Task Assumptions

- *Does not include final siren vendor procurement. This will be dependent on procurement method (buy boards or RFP) and cost estimates provided by the vendor.*

Task Deliverable

- Sound analysis and sound coverage (covering TWDB Flash Flood Risk Areas within County) provided by vendor (GIS data of siren location and coverage included)

Task 2d: Civil Design

Once the siren vendor is procured, the site civil engineer will coordinate with the vendor to verify appropriate siren locations. This task will be done in conjunction with Task 3: Site survey and Identification of Utility Conflicts. This task will include following:

- Finalize location and hardware requirements of sirens that cover all required areas
- Finalize location and hardware requirements of gages necessary to trigger sirens
- Determine infrastructure needed to install hardware
- Obtain appropriate permits
- Obtain access agreements and/or easements
- Prepare site, grading, and design plans as needed

Task Deliverables

- Final locations of all hardware
- Access agreements and/or easements
- Site, grading, and design plans

Task Assumptions

- The cost of this task is dependent on the number of sirens and stage that will be required to cover the SB3 flash flood area. That number will be determined during Tasks 2 a -c.

Task 2e: Flood Modeling

The purpose of this task will be to refine the existing flood modeling data to assist in the operations of the FEWS. The data will be used to determine the response time of the watershed at various locations and determine the elevations at which sirens triggers should occur. This task may be used to assist in finalizing the TWDB SB3 siren map as well.

Task Deliverables

- Hydrologic and/or hydraulic model
- Hydrologic and/or hydraulic model report
- Triggers for siren activation

Task 2f: Operations and Maintenance Plan

The task will include the following:

- Develop Operations and Maintenance plan that includes:
 - Roles and responsibilities, including who is responsible for authorizing activation;
 - MOUs for joint operations;

- Trigger / detection Protocols;
- Activation Protocols;
- Notification protocols for officials, emergency managers, and the general public;
- Testing protocol; and
- False alarm protocols

Task Deliverables

- Operations and maintenance plan
- MOUs between various agencies

Task 2g: Public Outreach Plan

This task will include a public outreach plan that will inform populations served by sirens about the system's purpose, testing schedule, alert tones and/or voice messages, and actions to take if activated. The plan will determine most appropriate ways to inform the public.

Task Deliverables

- Public outreach plan

Task 10: Outdoor Warning Siren System Master Plan Report

This task will include development of the outdoor warning siren system master plan report. This will include a summary of information from Task 2 and include:

1. Map of final flash flood prone areas requiring sirens
2. Summary of existing infrastructure and data
3. Siren placement location and sound analysis maps
4. Siren equipment details
5. Stage gage location map with equipment details
6. Hydrologic and hydraulic modeling report with siren triggers
7. Operations and maintenance plan
8. Public Outreach plan

Task Deliverables

- Outdoor warning siren system master plan

Budget Estimate

The budget estimate provided below is based on several assumptions. The budget will be refined during the project. Additional funds will be requested if necessary.

Task	Consultant	Total
Task 1: Project Kick-off Meeting	\$15,000	\$15,000
Task 2: Initial Project Assessment	\$335,000	\$335,000
Task 2a: Flash Flood Prone Area Refinement	\$15,000	\$15,000
Task 2b: Assess Existing infrastructure & Data	\$30,000	\$30,000
Task 2c: Siren Vendor Procurement	\$20,000	\$20,000
Task 2d: Civil Design	\$120,000	\$120,000
Task 2e: Flood Modeling	\$70,000	\$70,000
Task 2f: Operations and Maintenance Plan	\$60,000	\$60,000
Task 2g: Public Outreach Plan	\$20,000	\$20,000
Task 10: Final Study Report & Master Plan Report	\$20,000	\$20,000
Total	\$400,000	\$400,000

Schedule

Schedule

Flood Early Warning System Master Plan

