

THE STATE OF TEXAS)
 :
COUNTY OF WINKLER)

On this the 23rd day of July, 2014, the Commissioners' Court of Winkler County, Texas, met in Special Term of Court at the Courthouse in Kermit, Texas, with the following members present, to-wit:

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| Bonnie Leck | County Judge |
| Billy Stevens | Commissioner, Precinct No. 1 |
| Robbie Wolf | Commissioner, Precinct No. 2 |
| Randy Neal | Commissioner, Precinct No. 3 |
| Billy Ray Thompson | Commissioner, Precinct No. 4 |
| Shethelia Reed | County Clerk and Ex-Officio
Clerk of Commissioners' Court |

constituting the entire Court, at which time the following among other proceedings were had:

At 9:00 o'clock A.M. Judge Leck called the meeting to order.

A motion was made by Commissioner Wolf and seconded by Commissioner Stevens to approve Agreement for Transportation Infrastructure Fund Project Delivery Services between Winkler County, Texas and GrantWorks, Inc. and authorize County Judge to sign same; which motion became an order of the Court upon the following vote:

Ayes: Commissioners Stevens, Wolf, Neal and Thompson
Noes: None

TRANSPORTATION INFRASTRUCTURE FUND PROJECT DELIVERY SERVICES

THIS AGREEMENT, MADE THIS 21st DAY OF July, 2014 BY AND BETWEEN WINKLER COUNTY, TEXAS, hereinafter referred to as the Client, and GRANTWORKS, INC., Austin, Texas, hereinafter referred to as the Consultant, procured in accordance with Texas Government Code Chapter 2254, Subchapter A, "Professional Services."

I. SCOPE OF BASIC SERVICES

Consultant agrees to render Client project delivery services for Client's County Transportation Infrastructure Fund (TIF) Grant Program Contract Number CTF-01-248 (the "Contract"), as administered by the Texas Department of Transportation (the "Department"), as described in the provisions titled, "Part III, Scope of Basic Services" and attached hereto and incorporated by reference herein (the "Services").

II. TIME OF PERFORMANCE

The time of services of Consultant shall commence no earlier than upon receipt by the Client of an executed Contract between the Client and the Department. In any event, Consultant shall use commercially reasonable efforts to perform all services required and performed hereunder until the project is administratively closed, as defined by Department.

III. COMPENSATION AND METHOD OF PAYMENT

For and in consideration of the foregoing, Client agrees to pay Consultant a base fee of Eighty-Six Thousand Nine Hundred Eighty-Nine and 00/100 Dollars (\$86,989.00) in accordance with the following Fee Schedule:

Table with 2 columns: Tasks and Deliverables on a Project-Specific Basis, Aggregate Fee. Includes items like Environmental Commitment Review, Pre-Construction Services, etc., with a total of \$86,989.00.

*The fee for each task will be prorated to each Project's share of the total budgeted construction costs.

IV. CHANGES AND AMENDMENTS

The Client may, from time to time, request changes in the scope of services of the consultant to be performed hereunder. Such changes, including any increase or decrease in the amount of the Consultant's compensation, must be mutually agreed upon by and between the Client and the Consultant and shall be incorporated in written amendments to this Agreement.

V. ASSIGNABILITY

Neither party shall assign any interest in this Agreement or transfer any interest in the same, without the prior written consent of the other party, not to be unreasonably withheld, provided, however, that claims for money by the Consultant from the Client under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval.

VI. RECORDS AND AUDITS

During the term of this Agreement, the Consultant shall assist the Client in maintaining fiscal records and supporting documentation for all expenditures of funds made under the Contract. Such records must include data on racial, ethnic, and gender characteristics of persons who are applicants for, participants in, or beneficiaries of the funds provided under the Contract.

VI. MISCELLANEOUS PROVISIONS

- A. Governing Law: This Agreement shall be construed under and according with the laws of the State of Texas... B. Binding Effect, No Third Party Beneficiaries... C. Severability... D. Attorneys' Fees... E. Provision of Information... F. Primary Contact... G. Waiver of Consequential Damages... H. Limitation of Liability... I. Entire Agreement... J. Negotiated Terms...

AGREEMENT FOR PROJECT DELIVERY SERVICES (TXDOT) PART II - TERMS AND CONDITIONS

- K. Ownership of Work: The parties agree that the Consultant retains all ownership rights to forms, reports, and other documents produced in whole or in part under this Agreement... L. Alternative Dispute Resolution: The parties hereto agree to resolve all disputes arising hereunder in accordance with this section... M. Force Majeure: A "Force Majeure Event" means any event or cause beyond a party's reasonable control...

- 1. PERSONNEL: The Consultant represents it has or will secure at its own expense, all personnel required in performing the services under this Agreement... 2. REPORTS AND INFORMATION: The Consultant, at such times and in such forms as the Client may reasonably require, shall furnish the Client periodic reports... 3. FINANCIAL CONFIDENTIAL: All of the reports, information, data, etc., prepared or assembled by the Consultant under this Agreement are confidential... 4. COMPLIANCE WITH LOCAL LAWS, INDEMNIFICATION: Consultant shall comply with the requirements of all applicable laws, rules and regulations... 5. TERMINATION OF AGREEMENT FOR CAUSE: If the Consultant shall fail to fulfill in a timely and proper manner his/her obligations under this Agreement... 6. TERMINATION OF AGREEMENT FOR CONVENIENCE: Either the Client or the Consultant may terminate this Agreement at any time by providing at least ten (10) days notice... 7. INTEREST OF MEMBERS OF CLIENT: Client agrees that no member of its governing body, no other public official of Client, and no other officer, employee, or agent of the Client who exercises any functions or responsibilities in connection with the planning and carrying out of the program... 8. INTEREST OF CONSULTANT AND EMPLOYEES: The Consultant covenants that it presently has no interest and shall not acquire interest, direct or indirect, in the study area or any parcels therein or any other interest which would conflict in any manner or degree with the performance of its services.

IN WITNESSETH HEREOF, the Client and the Consultant have executed this Agreement as of the date indicated above.

GrantWorks, Inc. 2201 Northland Drive Austin, TX 78758. Winkler County, Texas 100 East Winkler Kermit, TX 79745. Signatures of Bruce J. Spang and Bonnie Leck. Attest: Sheriella Reed, County Clerk.

Hereunder. The Consultant further covenants that in the performance of this Agreement, no person having any such interest shall be employed by Consultant to perform services under this Agreement.

9. **INSURANCE:** During the term of this Agreement Consultant shall maintain at its own expense the required general liability and worker's compensation for personnel assigned to the project and automobile insurance for any vehicles used for the project in the amounts of:

Worker's Compensation – Statutory Amount
Employer's Liability - \$500,000.00

Commercial General Liability
Personal injury and property damage:
 \$1,000,000.00 combined single limit each occurrence and
 \$2,000,000.00 aggregate

Business Automobile Liability for all vehicles
Bodily injury and property damage:
 \$500,000.00 combined single limit any one accident

10. **STATUTORY COMPLIANCE:** During the term of this Agreement, the parties shall comply with all laws, regulations, and rules including the following:

A. **CIVIL RIGHTS ACT OF 1964.** Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

B. **EQUAL EMPLOYMENT OPPORTUNITY:** During the performance of this Agreement, the Consultant agrees as follows:

i. The Consultant will not discriminate against any employee or applicant for employment because of race, creed, sex, color or national origin. The Consultant will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, sex, color or national origin. Such actions shall include, but not be limited to, the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Client setting forth the provisions of this non-discrimination clause.

ii. The Consultant will, in all solicitation or advertisements for employees placed by or on behalf of the Consultant, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, sex, or national origin.

iii. The Consultant will cause the foregoing provisions in this Section 11 to be inserted in all subcontracts for any work covered by this Agreement so that such provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

iv. The Consultant will include the provisions i through iii, in every subcontract or purchase order unless exempted.

C. **UNIFORM GRANT MANAGEMENT STANDARDS:** Texas Administrative Code, Title 34 Part 1, Chapter 20, Subchapter 1 (UGMS) shall govern all work covered by this Agreement. State agencies are required to adhere to the UGMS when administering grants and other financial assistance agreements with cities, counties and other political subdivisions of the state. A state

agency must expend and account for grant funds in accordance with state laws and procedures for expending and accounting for its own funds. Fiscal control and accounting procedures of the state, as well as its subgrantees, must be sufficient to:

- (1) Permit preparation of reports required by the UGMS and the statutes authorizing the grant, and
- (2) Permit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes.

D. **COST PRINCIPALS FOR STATE, LOCAL, AND INDIAN TRIBAL GOVERNMENTS:** OMB Circular A-87 applies to all work covered by this Agreement.

E. **COUNTY TRANSPORTATION INFRASTRUCTURE FUND:** Texas Administrative Code, Title 43, Part 1, Chapter 15, Subchapter D applies to all work covered by this Agreement as does all Implementation Guidance, Frequently Asked Questions, and related guidance provided by the Texas Department of Transportation from time to time.

AGREEMENT FOR PROJECT DELIVERY SERVICES
PART III - SCOPE OF BASIC SERVICES

All tasks will be completed on a per-project basis for projects included in the County's List of Transportation Infrastructure Projects.

- Complete project environmental review and compliance activities (any archeological services are outside the scope of this agreement)
- Complete any necessary project acquisition activities in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and Texas Landowners Bill of Rights (Texas Government Code Sec. 492.031 and Chapter 21 of the Texas Property Code)
- Provide labor standards compliance for all contracted work in conformance with Texas Government Code Title 10, Chapter 2256 including on-site employee interviews, review of all contractor payrolls, wage determination calculation of wage restitution, etc.
- Assist in procurement of construction services, materials, rental/lease equipment, professional design services, or other items needed to implement the TIF projects including bid documents, notices and contracts—may include multiple bids for contracted work for various projects
- Coordinate HUB program requirements
- Assist with documentation of any project-related force account (county crew and equipment) hours and costs—requires on-site meetings with county commissioners and staff, access to Rental Rate Blue Book for equipment
- Assist in compilation of data for county owned equipment used for each project
- Review of all contractor or materials invoices for compliance with local financial reporting requirements
- Assist in preparing TIF Billing Summaries and invoices for reimbursement; requests and in determining whether costs are eligible for reimbursement
- Assist in preparing Certifications and back-up documents related to individual projects for signature by local officials
- Assist with quality assurance documentation for compliance with County Design Criteria and Specifications (photographs, measurements, records)—requires on-site visits during construction
- Provide reports for Commissioners Court regarding project status
- Coordinate with county financial officers and staff on project-specific cost accounting and tracking
- Assist in preparation of amendments to TxDOT Agreement and reviews to List of Transportation Infrastructure projects as needed
- Other project delivery services as may be required to implement the County's TIF grant program.

Additional General Terms Regarding Third-Parties

Assistance by Consultant with (1) verification of construction contractors or other service contractors, (2) selection of bid award winners, or (3) any other activity relating to contractors, subcontractors, bid award winners, or any other third party not directly engaged through a written agreement with Consultant to provide services required to be provided by Consultant under this Agreement (collectively, "Third Party Service Providers") or is not intended to be and shall not be construed as an endorsement, representation or warranty by Consultant of any kind relating to such Third Party Service Providers or of the quality of such Third Party Service Providers' work, and all such endorsements, representations or warranties hereby are expressly disclaimed.

At this time the Court conducted Preconstruction Workshop for Transportation Infrastructure Fund Project.

The Court heard presentation by Ray Bader, District Extension Administrator for Texas AgriLife Extension Service regarding Winkler-Loving Extension Program.

At this time the Court entered into Budget Workshop.

A motion was made by Commissioner Neal and seconded by Commissioner Thompson to adjourn the meeting; which motion became an order of the Court upon the following vote:

Ayes: Commissioners Stevens, Wolf, Neal and Thompson
Noes: None

MINUTES approved the _____ day of _____, 20_____.

COUNTY CLERK