

**PROFESSIONAL SERVICES AGREEMENT
FOR
ENGINEERING SERVICES
RELATED TO
MONTGOMERY ECONOMIC DEVELOPMENT CORPORATION
ON-CALL SERVICES**

**THE STATE OF TEXAS §
 §
COUNTY OF MONTGOMERY §**

THIS AGREEMENT made on the _____ day of _____, 2023 entered into, and executed by and between the Montgomery Economic Development Corporation, an industrial development corporation created pursuant to Tex. Rev. Civ. Stat. Ann. Art. 5190.6, Section 48, now Chapter 505 of the Texas Local Government Code, located in Montgomery County, Texas, (the "MEDC") and Civil Systems Engineering, Inc. ("Engineer").

WITNESSETH:

WHEREAS, the MEDC desires to have on-call services related to development and projects within the City of Montgomery (the "Project"); and

WHEREAS, the services of a professional engineering firm are necessary to assist with layouts, plans, and design as needed, and

WHEREAS, the Engineer represents that it is fully capable and qualified to provide professional services to the MEDC related to professional engineering;

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

**SECTION I
SCOPE OF AGREEMENT**

Engineer agrees to perform certain professional engineering services as defined in Attachment "A" attached hereto and made a part hereof for all purposes, hereinafter sometimes referred to as "Scope of Work," and for having rendered such services, the MEDC agrees to pay Engineer compensation as stated in Section VII.

**SECTION II
CHARACTER AND EXTENT OF SERVICES**

Engineer shall do all things necessary to render the engineering services and perform the Scope of Work in a professional and workmanlike manner. It is expressly understood and agreed that Engineer is an Independent Contractor in the performance of the services agreed to herein. It is further understood and agreed that Engineer shall not have the authority to obligate or bind the MEDC, or make representations or

commitments on behalf of the MEDC or its officers or employees without the express prior approval of the MEDC. The MEDC shall be under no obligation to pay for services rendered not identified in Attachment "A" without prior written authorization from the MEDC.

SECTION III OWNERSHIP OF WORK PRODUCT

Engineer agrees that the MEDC shall have the right to use all exhibits, maps, reports, analyses and other documents prepared or compiled by Engineer pursuant to this Agreement. The MEDC shall be the absolute and unqualified owner of all studies, exhibits, maps, reports, analyses, determinations, recommendations, computer files, and other documents prepared or acquired pursuant to this Agreement with the same force and effect as if the MEDC had prepared or acquired the same.

SECTION IV TIME FOR PERFORMANCE

The Engineer is committed to achieving the schedule necessary to meet the MEDC goals. Engineer will coordinate with the MEDC President or Designee and establish a schedule of events to include project task, milestones, and deadlines. Tasks identified can be authorized as a whole or individually at the discretion of the MEDC and their MEDC President or Designee.

Upon written request of Engineer, the MEDC may grant time extensions to the extent of any delays caused by the MEDC or other agencies with which the work must be coordinated and over which Engineer has no control.

SECTION V COMPLIANCE AND STANDARDS

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 applicable profession to comply with all applicable state, federal, and local laws, ordinances, rules, and regulations relating to the work to be performed hereunder and Engineer's performance.

SECTION VI INDEMNIFICATION

To the fullest extent permitted by Texas Local Government Code Section 271.904, Engineer shall and does hereby agree to indemnify, hold harmless and defend the MEDC, its officers, agents, and employees against liability for damage caused by or resulting from an act of negligence, intentional tort, intellectual property infringement, or failure to pay a subcontractor or supplier committed by the Engineer, the Engineer's agent, consultant under contract, or another entity over which the Engineer exercises control.

**SECTION VII
ENGINEER'S COMPENSATION**

For and in consideration of the services rendered by Engineer pursuant to this Agreement, the MEDC shall pay Engineer only for the actual work performed under the Scope of Work, on the basis set forth in Attachment "A," up to an amount not to exceed \$32,000.00, including reimbursable expenses as identified in Attachment "A."

**SECTION VIII
TERMINATION**

The MEDC may terminate this Agreement at any time by giving written notice to Engineer. Upon receipt of such notice, Engineer shall discontinue all services in connection with the performance of this Agreement and shall proceed to promptly cancel all existing orders and contracts insofar as such orders or contracts are chargeable to the Agreement. As soon as practicable after receipt of notice of termination, Engineer shall submit a sworn statement, showing in detail the services performed under this Agreement to the date of termination. The MEDC shall then pay Engineer for such services performed under this Agreement as those services bear to the total services called for under this Agreement, less such payments on account of the charges as have been previously made. Copies of all completed or partially completed designs, maps, studies, documents and other work product prepared under this Agreement shall be delivered to the MEDC when and if this Agreement is terminated.

**SECTION IX
ADDRESSES, NOTICES AND COMMUNICATIONS**

All notices and communications under this Agreement shall be mailed by certified mail, return receipt requested, to Engineer at the following address:

Civil Systems Engineering, Inc.
1202 Lake Pointe Parkway
Sugar Land, Texas 77478
Attn: Kyle Bertrand, P.E., Vice President

All notices and communications under this Agreement shall be mailed by certified mail, return receipt requested, to the MEDC at the following address:

Montgomery Economic Development Corporation
101 Old Plantersville Rd
Montgomery, Texas 77316
Attn: Rebecca Huss, MEDC President

**SECTION X
LIMIT OF APPROPRIATION**

Prior to the execution of this Agreement, Engineer has been advised by the MEDC and Engineer clearly understands and agrees, such understanding and agreement being

of the absolute essence to this Agreement, that the MEDC shall have available only those sums as expressly provided for under this Agreement to discharge any and all liabilities which may be incurred by the MEDC and that the total compensation that Engineer may become entitled to hereunder and the total sum that the MEDC shall become liable to pay to Engineer hereunder shall not under any conditions, circumstances, or interpretations hereof exceed the amounts as provided for in this Agreement.

SECTION XI SUCCESSORS AND ASSIGNS

The MEDC and Engineer bind themselves and their successors and assigns to the other party of this Agreement and to the successors and assigns of such other party, in respect to all covenants of this Agreement. Engineer shall not assign, sublet, or transfer its interest in this Agreement without the written consent of the MEDC. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of the MEDC or any public body which may be a party hereto.

SECTION XII MODIFICATIONS

This instrument, including Attachment "A," contains the entire Agreement between the parties relating to the rights herein granted and the obligations herein assumed. To the extent there is a conflict between the provisions of this Agreement and the provisions of Attachment "A," this Agreement shall control. Any oral or written representations or modifications concerning this instrument shall be of no force and effect excepting a subsequent modification in writing signed by both parties hereto.

SECTION XIII ADDITIONAL SERVICES OF ENGINEER

If authorized in writing by the MEDC, Engineer shall furnish, or obtain from others, Additional Services that may be required because of significant changes in the scope, extent or character of the portions of the Project designed or specified by the Engineer, as defined in Attachment "A." These Additional Services, plus reimbursable expenses, will be paid for by the Owner on the basis set forth in Attachment "A," up to the amount authorized in writing by the MEDC.

SECTION XIV CONFLICTS OF INTEREST

Pursuant to the requirements of the Chapter 176 of the Texas Local Government Code, Engineer shall fully complete and file with the City of Montgomery City Secretary a Conflict of Interest Questionnaire.

**SECTION XV
PAYMENT TO ENGINEER FOR SERVICES AND REIMBURSABLE EXPENSES**

Invoices for Basic and Additional Services and reimbursable expenses will be prepared in accordance with Engineer's standard invoicing practices and will be submitted to the MEDC by Engineer at least monthly. Invoices are due and payable thirty (30) days after receipt by the MEDC.

**SECTION XVI
INSURANCE**

Engineer shall procure and maintain insurance in accordance with the terms and conditions set forth in Attachment "B," for protection from workers' compensation claims, claims for damages because of bodily injury, including personal injury, sickness or disease or death, claims or damages because of injury to or destruction of property including loss of use resulting therefrom, and claims of errors and omissions.

**SECTION XVII
MISCELLANEOUS PROVISIONS**

A. This Agreement is subject to the provisions of the Texas Prompt Payment Act, Chapter 2250 of the Texas Government Code. The approval or payment of any invoice shall not be considered to be evidence of performance by Engineer or of the receipt of or acceptance by the MEDC of the work covered by such invoice.

B. Venue for any legal actions arising out of this Agreement shall lie exclusively in the federal and state courts of Harris County, Texas.

C. This Agreement is for sole benefit of the MEDC and Engineer, and no provision of this Agreement shall be interpreted to grant or convey to any other person any benefits or rights.

D. Contractor further covenants and agrees that it does not and will not knowingly employ an undocumented worker. An "undocumented worker" shall mean an individual who, at the time of employment, is not (a) lawfully admitted for permanent residence to the United States, or (b) authorized by law to be employed in that manner in the United States.

E. In accordance with Chapter 2270 and 2252, Texas Government Code, a government entity may not enter into a contract with a company for goods or services unless the Engineer covenants and agrees that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract. Furthermore, the Engineer is prohibited from engaging in business with Iran, Sudan, or Foreign Terrorist Organization.

F. In accordance with Chapter 2274, Texas Government Code, a government entity may not enter into a contract with a company for goods or services unless the Engineer covenants and agrees that it: (1) does not Boycott Energy Companies; (2) will

not Boycott Energy Companies during the term of the contract; (3) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (4) will not discriminate during the term of the contract against a firearm entity or firearm trade association.

IN WITNESS WHEREOF, the Montgomery Economic Development Corporation has lawfully caused this Agreement to be executed by the MEDC President or Designee of said MEDC and attested by the City Secretary and Civil Systems Engineering Inc., acting by and through its duly authorized officer/representative, does now sign, execute, and deliver this instrument.

EXECUTED on this _____ day of _____, 2023.

ENGINEER:

Civil Systems Engineering, Inc.

By: _____

Name: Kyle Bertrand, P.E.

Title: Vice President

**MONTGOMERY ECONOMIC
DEVELOPMENT CORPORATION**

Rebecca Huss
MEDC President

ATTEST:

Nici Browe
City Secretary

ATTACHMENT “A”

PART A - SCOPE OF SERVICES

**MONTGOMERY ECONOMIC DEVELOPMENT CORPORATION
ON-CALL SERVICES**

Description of Project

Civil Systems Engineering, Inc. (Engineer) will assist the Montgomery Economic Development Corporation with on-call services related to development and projects within the City of Montgomery and Task Orders for City related planning, jurisdictional coordination, and mobility projects. The proposed services shall include the following:

Project Scope: Tasks will be assigned by the MEDC President or Designee on an as-needed, Task Order basis. This will include, but not limited to, assisting the MEDC with project administration, jurisdictional coordination, mobility projects, attend meetings (City Council, Boards and Commissions, development, TxDOT, HGAC, etc, as needed), property acquisition and/or sales, solicitation of consultant proposals, plan and plat reviews; conceptual engineering/site due diligence for potential projects to include conceptual layouts, conceptual planning, and opinions of probable construction costs for unnamed proposed development and projects within the City of Montgomery.

Task Orders for specific assignments will be assigned on an as-needed basis (Attachment C). The Task Orders shall be in writing and shall be automatically incorporated by reference into the Agreement upon execution by the Parties. This will include, but not limited to, scope of services, schedule for the performance, deliverables, and terms of compensation.

PART B – BASIS OF COMPENSATION AND REIMBURSABLE EXPENSES

MONTGOMERY ECONOMIC DEVELOPMENT CORPORATION ON-CALL SERVICES

The following represents the estimated maximum compensation for the scope of services documented in Attachment A, Part A of this agreement. If services beyond those specifically identified are determined necessary during the project, Engineer shall not proceed with those services until such time written approval of the scope and any additional fees are approved by the Montgomery Economic Development Corporation.

Engineer will provide the aforementioned engineering services on an hourly Not-to Exceed basis in accordance with Engineer's standard hourly rates in effective at the time services are provided, fiscal year 2023 Rates attached. Total compensation for this authorization shall not exceed \$32,000.00, including reimbursable expenses, by Task Order – Specific Project Assignments (Actual fee will be determined at time of Task Order Scoping).

Total compensation for this authorization shall not exceed \$32,000.00, including reimbursable expenses.

Notes: 1. Reimbursable Expenses shall be invoiced and paid based on cost of service provided plus 10% markup. These services include travel, deliveries, postage, graphical reproduction, etc...

ATTACHMENT "B"
INSURANCE

ATTACHMENT C

TASK ORDER #

This Task Order No. # (“Task Order”) is issued under the PROFESSIONAL SERVICES AGREEMENT FOR ENGINEERING SERVICES RELATED TO MONTGOMERY ECONOMIC DEVELOPMENT CORPORATION ON-CALL SERVICES (“AGREEMENT”) dated _____, 2023 between MONTGOMERY ECONOMIC DEVELOPMENT CORPORATION (OWNER) and CIVIL SYSTEMS ENGINEERING, INC. (ENGINEER). This Task Order shall have an effective date of _____.

1. Upon execution by the OWNER AND ENGINEER, this Task Order is hereby incorporated by reference into the AGREEMENT.
2. Terms and Conditions
This AGREEMENT only consists of the Articles and Exhibits expressly set forth in the referenced AGREEMENT, any additional terms and conditions expressly set forth in this Task Order.
3. Task Order Services
The services to be performed by ENGINEER under this Task Order are:
(Scope to be entered)
4. Task Order Schedule
The schedule for the ENGINEER performance of the Task Order Services are:
(Schedule to be entered)
5. Task Order Deliverables
The reports or other deliverables to be provided by ENGINEER under this Task Order are:
(Deliverables to be entered)
6. Task Order Compensation
The compensation to be paid for the proper performance of the Services under this Task Order are:
(Compensation to be entered)

IN WITNESS WHEREOF the parties hereto have made and executed this Agreement on the day and year first above written:

OWNER:
MONTGOMERY ECONOMIC
DEVELOPMENT CORPORATION

ENGINEER:
CIVIL SYSTEMS ENGINEERING, INC.

Rebecca Huss
MEDC President

Kyle Bertrand, P.E.
Vice President