



**MEMORANDUM**

**Highway  
Department**

Jason Benson, P.E.  
County Engineer

Thomas B. Soucy, P.E.  
Deputy County Engineer

Blaine Laaveg  
Superintendent

TO: Cass County Commission

FROM: Jason Benson, Cass County Engineer *PCP?*  
*Tom Soucy*

DATE: May 8, 2023

SUBJECT: Consent Agenda Item for May 15, 2023 Commission Meeting: Projects CB2706, TB2405, TB2705, TB2706, TB2707, TB2708, TB2709 & CB2502 – Hydraulic Studies

Attached are the contract documents for Houston Engineering, Inc. for Hydraulic Studies for the design of future bridges. These bridges are part of the 5 year highway and bridge plan. The hydraulic studies are needed to size the bridges. The estimated cost of this work is \$57,600.00

CB2706	C31 – 1/2 Harwood Twp – Drain 29
TB2405	26/35 Howes Twp – Buffalo Creek Trib.
TB2705	29 Harwood Twp – Rush River
TB2706	29/30 Harwood Twp – Rush River
TB2707	23/24 Raymond Twp – Maple River
TB2708	35 Raymond Twp – Drain 14
TB2709	9/10 Harwood Twp – Sheyenne River Trib.
CB2502	C1 – 17/18 Rochester Twp – Maple River

**SUGGESTED MOTION:** AUTHORIZE CHAIRPERSON TO SIGN CONTRACT DOCUMENTS WITH HOUSTON ENGINEERING, INC. FOR THE HYDRAULIC STUDIES SUBJECT TO STATE'S ATTORNEYS APPROVAL.

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1201 Main Avenue West  
West Fargo, North Dakota  
58078-1301

701-298-2370  
Fax: 701-298-2395

# CONTRACT APPROVAL REQUEST

COMPANY REQUESTING CONTRACT:

**Houston Engineering, Inc., 1401 21<sup>st</sup> Ave N, Fargo, ND 58102**

DATE OF REQUEST: May 8, 2023

DATE OF EXPECTED RETURN TO THE COMMISSION OFFICE: May 15, 2023

DEPARTMENT HEAD REQUESTING SIGNATURE: **Jason Benson, 701-298-2372**

STATE'S ATTORNEY SIGNATURE: *Matthew Nauman* *FOR* *Jason Benson*

STATE'S ATTORNEY COMMENTS: Approved as to form.

PORTFOLIO COMMISSIONER SIGNATURE: \_\_\_\_\_

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## CASS COUNTY GOVERNMENT ENGINEERING SERVICES AGREEMENT

Project Numbers and Locations: CB2706 - C31 – 1/2 Harwood Twp – Drain 29, TB2405 - 26/35 Howes Twp – Buffalo Creek Trib., TB2705 - 29 Harwood Twp – Rush River, TB2706 - 29/30 Harwood Twp – Rush River, TB2707 - 23/24 Raymond Twp – Maple River, TB2708 - 35 Raymond Twp – Drain 14, TB2709 - 9/10 Harwood Twp – Sheyenne River Trib., CB2502 - C1 – 17/18 Rochester Twp – Maple River

Type of Project: Hydraulic Studies

Type of Construction: Structure Sizing

**THIS AGREEMENT** is entered into by and between Cass County, herein after known as the County, and Houston Engineering, Inc., of West Fargo, North Dakota hereinafter known as Engineer.

### I.

The Engineer shall perform the needed detailed construction design services only per Request for Proposal.

### II.

The County will pay the Engineer as follows:

A. Maximum Payment: The total contract cost not to exceed \$57,600.00 unless changed according to Section VI.

### III.

The work under this agreement shall be performed as required to meet the project requirements and the contractor's work schedule.

### IV.

Duly authorized representatives of the County, North Dakota Department of Transportation, and Federal Highway Administration (FHWA) shall have right to inspect and copy the Engineer's plans, files, and records relating to the work included in this agreement.

All books, documents, papers, accounting records, and other evidence pertaining to the cost incurred under the agreement shall be retained by the Engineer and available for inspection by the County, North Dakota Department of Transportation, or FHWA for a period of three years after the date of final payment.

The files and records shall be available in the Engineer's office located at Houston Engineering, Inc.

### V.

The Engineer warrants that he has not employed or retained any company or person, other than a bona fide employee working solely for the Engineer, to solicit or secure this agreement, and that he has not paid or agreed to pay any company or person, other than bona fide employees working solely for the Engineer, any fee, commission, percentage, brokerage fee, gifts, or any other consideration contingent upon or resulting from the award or making of this agreement. For breach or violation of this warranty, the County and North Dakota Department of Transportation shall have the right to annul this agreement without liability, or to deduct from the agreement price or consideration or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

### VI.

No change in the type or extent of the work to be performed by the Engineer shall be made except by supplemental

agreement in writing between the County and the Engineer. The supplemental agreement shall set forth the proposed changes of work, extension of time for preparation of the plans, and adjustment to the fee to be paid by the County to the Engineer, if any. On federal-aid participating projects any supplemental agreement must be approved by the North Dakota Department of Transportation.

## VII.

This agreement may be terminated by the County and North Dakota Department of Transportation at any time upon written notice to the Engineer. In the event that such termination should take place before the completion of the total work to be performed hereunder the County will pay the Engineer for the completed hourly work not to exceed the total work to be performed under this contract.

In the event that the termination of this agreement is not the fault of the Engineer the County shall compensate the Engineer for services performed prior to the termination, along with reimbursable expenses then due.

The original copies of all drawing, prints, plans, and field notes prepared by the Engineer prior to termination shall become the property of the County. Such termination shall not affect any legal right of the County against the Engineer for any breach of this agreement.

The design services done as a result of this agreement are intended for use only on the project that is the subject of this agreement. The design services are not intended to be used on other projects. In the event that the County uses the design services that are the subject of this agreement on another project the use of the design services will be at the County's own risk.

## VIII.

The Engineer shall indemnify, save, and hold harmless the County and/or North Dakota Department of Transportation and employees thereof, from any and all claims, demands, actions arising out of the negligent acts, errors, or omissions of the Engineer, his employees, or agent, in the performance of the agreement, or matters incidental thereto.

Any and all persons employed directly or indirectly by the Engineer who are engaged in the performance of any work or services required of the Engineer under this agreement shall be considered employees of the Engineer only and not of the County or North Dakota Department of Transportation.

The Engineer shall comply with applicable federal state and local laws together with all applicable ordinances and regulations applicable to the work. He shall procure all licenses, permits, and other rights necessary for the fulfillment of his obligations under this agreement.

The appropriate professional engineer (P.E.) and/or land surveyor (L.S.) endorsement shall be placed on all documents, plans, or plats.

The Engineer shall comply with Title VI of the Civil Rights Act of 1964, Executive Order 112246 and Executive Order 11375. In accordance with the aforementioned act, no person in the United States shall, on the grounds of race, color, religion, sex, age, handicap, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this agreement.

## IX.

The services of the Engineer to be performed hereunder are personal and shall not be assigned, sublet, or transferred, except specialized services or additional work items. If the specialized services or additional work exceeds \$10,000.00, the contract with the agency or firm doing the work shall contain all the provisions of this agreement. The Engineer shall not engage, on a full-or part-time or other basis during the period of this agreement, any professional or technical personnel who are or have been at any time during the period of the agreement in the employment of the FHWA, the North Dakota Department of Transportation, or the County, without the written consent of the public employer of such person.

**X.**

The Engineer shall obtain all risk record protection insurance to cover the loss of all survey notes or all other records or data obtained in connection with the work.

**XI.**

The Engineer is advised that his or her signature on this contract and/or agreement certifies that the company or any person associated with it is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three years; and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction on any matter involving fraud or official misconduct within the past three years.

**ATTESTED:**

**COUNTY OF CASS**

\_\_\_\_\_  
County Finance Director

\_\_\_\_\_  
Chairperson, Board of County Commissioners

\_\_\_\_\_  
Date

\_\_\_\_\_  
Gregory, S. Thompson, Houston Engineering, Inc.

\_\_\_\_\_  
Date