

THE STATE OF TEXAS §
 §
 COUNTY OF HIDALGO §

**SUPPLEMENTAL AGREEMENT NO. 3
 TO AGREEMENT FOR PROFESSIONAL SERVICES**

THIS Agreement is made this ___ day of April, 2007 by and between the **HIDALGO COUNTY**, acting herein by and through the **HIDALGO COUNTY COMMISSIONERS COURT**, hereinafter called the "**Owner**", and **R. GUTIERREZ ENGINEERING CORPORATION**, professional engineers of Pharr, Texas, hereinafter called the "**Engineer**".

WITNESSETH

WHEREAS, the **Owner** and the **Engineer** executed that one certain **Agreement** on the 27th day of February, 2001 concerning the providing of professional engineering and surveying services for the development of a design schematic, environmental assessment, right-of-way map, and full plans, specifications and estimate (PS&E) for the upgrading of Nolana Loop from county road standards to Farm-to-Market standards from FM 1426 (Raul Longoria Rd) east to FM 88 (the "**Agreement**"). The engineering and surveying services shall be performed to meet Texas Department of Transportation (TxDOT) standards for Farm-to-Market road construction (hereinafter referred to as the "**Project**"); and,

WHEREAS, Article 8 of the **Agreement**, (Supplemental Agreements), establishes that the terms of the **Agreement** may be amended by supplemental agreement if the **Owner** determines that (1) there is a need to extend the **Termination Date** identified in Article 3.1 hereof, (2) there has been a significant change in the scope, complexity or character of the services to be performed by the **Engineer**, and/or (3) for any other reason agreeable to the **Owner** and the **Engineer**; and,

WHEREAS, it has become necessary to amend the **Agreement** to

(1) revise "Exhibit B – Scope of Work" of this **Agreement** to develop the entire length of project, a 9.90 mile section, as an urban boulevard type roadway with curb & gutter and a storm sewer system,

(2) revise "Exhibit B – Scope of Work" of this **Agreement** dividing the 9.9 mile long project into four parts,

(3) revise "Exhibit C – Work Schedule" of this **Agreement** to allow for the revised design requirements and to complete other necessary elements of the project,

(4) revise Article 3.1 "Termination Date" of this **Agreement** to coincide with the revised "Exhibit C – Work Schedule" of this **Agreement**,

(5) revise Exhibit D1 – Cost Proposal of this **Agreement** to allow for additional compensation due the **Engineer** for the additional work required to be performed due to the increased complexity of developing the entire length of project, a 9.90 mile section, as an urban boulevard type roadway with curb & gutter and a storm sewer system, and

(6) revise Article 5 "Compensation and Fees" of the **Agreement** to increase the lump sum fee payable by the **Owner** to the **Engineer**.

Hidalgo County / R. Gutierrez Engineering Corporation
 Nolana Loop – FM 1426 to FM 88

AGREEMENT

NOW THEREFORE, premises considered, the **Owner** and the **Engineer** agree that the **Agreement** is amended as follows:

I. Exhibit B of the Agreement (Services to be Provided by the Engineer) as follows:

PHASE I – PRELIMINARY ENGINEERING

The first sentence is deleted and the following is inserted in lieu thereof:

“The **Engineer** will perform, or provide for, professional engineering, surveying, environmental and public involvement services for the preliminary engineering part of the development and upgrading of a 9.9 mile section of Nolana Loop from county road standards to urban curb & gutter (boulevard type) standards.”

PHASE III – PLANS DEVELOPMENT

The first sentence is deleted and the following is inserted in lieu thereof:

“The **Engineer** will perform, or provide for, professional, surveying, geotechnical and engineering design services for the preparation of plans for the development and upgrading of 9.9 mile section of Nolana Loop from county road standards to urban curb & gutter (boulevard type) standards.”

II. Exhibit B of the Agreement (Services to be Provided by the Engineer), as follows:

Amendment I of Supplemental Agreement No. 1 is deleted and the following is inserted in lieu thereof:

“The project will be developed in four parts. Part 1 will include Phase I work on the entire 9.9 mile section of project, Phase II and Phase III work on a 2.25 mile section of road with limits from FM 1426 (Raul Longoria Road) east to 0.25 miles east of FM 907 (Alamo Road). Part 2 will include Phase II and Phase III work on a 2.35 mile section of road with limits from 0.25 miles east of FM 907 (Alamo Road) to 0.25 miles east of FM 1423 (Val Verde Road). Part 3 will include Phase II and Phase III work on a 2.60 mile section of road with limits from 0.25 miles east of FM 1423 (Val Verde Road) to 0.25 miles east of FM 493 (La Blanca Road). Part 4 will include Phase II and Phase III work on a 2.70 mile section of road with limits from 0.25 miles east of FM 493 (La Blanca Road) east to FM 88 (Ruben Hinojosa Highway).”

III. Exhibit C of the Agreement (Work Schedule) is replaced with the “Exhibit C” attached hereto bearing a footnoted revision date of 04-10-07.

III. Article 3.1 of the Agreement (Termination Date) is deleted and the following is inserted in lieu thereof:

Hidalgo County / R. Gutierrez Engineering Corporation
Nolana Loop – FM 1426 to FM 88

SUPPLEMENTAL AGREEMENT NO. 3

Page 2 of 3

"This Agreement shall terminate at the close of business on **January 31, 2012** (hereinafter referred to as the "**Termination Date**"), unless extended by written supplemental agreement, as provided in Article 8 hereof, duly executed by the **Engineer** and the **Owner** prior to the **Termination Date**, or otherwise terminated as provided in Article 3.4 herein and below.

- IV. Exhibit D1 of the **Agreement** (Cost Proposal) is replaced with "Exhibit D1 attached hereto bearing a footnoted revision date of 04-10-07.
- V. Article 5 of the **Agreement** (Compensation and Fees) first sentence is amended to read as follows:

"For and in consideration of the services to be rendered by the **Engineer**, as identified in Article 2 and more particularly identified in **EXHIBIT "B"**, attached hereto, the lump sum fee (hereinafter referred to as the "**Fee**") payable by the **Owner** to the **Engineer** is One Million Eight Hundred Sixty Thousand dollars (\$ 1,860,000)."

Except as amended by this Supplemental Agreement, the remaining provisions of the Agreement are unchanged and shall remain in full force and effect.

IN WITNESS WHEREOF, the **Engineer** and the **Owner** have caused this Supplemental Agreement to the Agreement for Professional Services to be executed as of the _____ day of _____, 20__.

**THE ENGINEER:
R. GUTIERREZ ENGINEERING CORPORATION**

BY: 
Ramiro Gutierrez, P.E., President

**THE OWNER:
HIDALGO COUNTY**

BY: _____
County Judge

LIST OF ATTACHMENTS:

- "Exhibit C" – Revised 04-10-07
- "Exhibit D1" – Revised 04-10-07

Hidalgo County / R. Gutierrez Engineering Corporation
Nolana Loop – FM 1426 to FM 88

EXHIBIT "C"

Work Schedule

For this Agreement, the **Engineer** shall perform the work identified in EXHIBIT "B" in accordance with the following schedule:

PART 1

PROJECT MILESTONES

SCHEDULE *

Phase I – Preliminary Engineering - (Entire Length of Project – 9.9 Miles)

Project Notice to Proceed	February 1, 2001
Surveying for Planimetrics	Sep 1 to Nov 1, 2002
Develop Planimetrics	Dec 1, 2002 to Feb 1, 2003
Preliminary Schematic Design	Jan 1, 2003 to Aug 1, 2006
Informal Public Meetings	Aug 1 to Sep 1, 2006
Environmental Assessment	Feb 1, 2003 to May 1, 2007
Receive Authorization for Public Hearings	Dec 1, 2007
Public Hearing Process	Dec 1, 2007 to Feb 1, 2008
Final Schematic Design	Jan 1 to Feb 1, 2008
Obtain Environmental Clearance	Feb 1 to March 1, 2008

Phase II – Right-of-Way Map - (Raul Longoria Road to 0.25 miles east of Alamo Road – 2.25 miles)

Title Reports	Aug 1, 2002 to Apr 1, 2005
Abstract Right-of-Way Map	Sep 1, 2002 to May 1, 2005
Surveying for Right-of-Way Map	Oct 1, 2002 to Oct 1, 2005
Prepare Field Notes & Parcel Sketches	Oct 1, 2002 to Oct 1, 2005
Final Right-of-Way Map	October 1, 2005

Phase III – Plans Development - (Raul Longoria Road to 0.25 miles east of Alamo Road – 2.25 miles)

Begin Plan Development	Dec 1, 2002
Surveying – Field Verification	Feb 1, 2003 to Aug 1, 2005
Geotechnical Investigation	Feb 1, 2003 to Aug 1, 2005
Develop Detailed Plans	Feb 1, 2003 to Oct 1, 2007
TxDOT Review	Oct 1, 2007 to Feb 1, 2008
Project Letting	March 7, 2008

The **Engineer** will diligently pursue to complete Phases I, II and III for a 2.25 mile section from Raul Longoria Road to 0.25 miles east of Alamo Road. Phase I work for the entire length of project will proceed as expeditiously as possible but Phase II & III of the work for the 2.25 mile section will be completed by March 7, 2008.

Hidalgo County / R. Gutierrez Engineering Corporation
Nolana Loop – From FM 1426 to FM 88

Revised 04-10-07

EXHIBIT "C"
Page 1 of 3

PART 2**PROJECT MILESTONES****SCHEDULE *****Phase II – Right-of-Way Map – (0.25 miles east of Alamo Road to 0.25 miles east of FM 1423 – 2.25 miles)**

Title Reports	Sep 1, 2007 to Apr 1, 2008
Abstract Right-of-Way Map	Sep 1, 2007 to May 1, 2008
Surveying for Right-of-Way Map	Oct 1, 2007 to Jul 1, 2008
Prepare Field Notes & Parcel Sketches	Oct 1, 2007 to Jul 1, 2008
Final Right-of-Way Map	August 1, 2008

Phase III – Plans Development – (0.25 miles east of Alamo Road to 0.25 miles east of FM 1423 – 2.25 miles)

Begin Plan Development	Aug 1, 2008
Surveying – Field Verification	Apr 1, 2003 to Aug 1, 2008
Geotechnical Investigation	Apr 1, 2003 to Aug 1, 2008
Develop Detailed Plans	Sep 1, 2008 to Aug 1, 2009
TxDOT Review	Aug 1, 2007 to Dec 1, 2009
Project Letting	December 8, 2009

PART 3**PROJECT MILESTONES****SCHEDULE *****Phase II – Right-of-Way Map – (0.25 miles east of FM 1423 to FM 88 - 5.4 Miles)**

Title Reports	Sep 1, 2008 to Apr 1, 2010
Abstract Right-of-Way Map	Sep 1, 2008 to May 1, 2010
Surveying for Right-of-Way Map	Oct 1, 2008 to Jul 1, 2010
Prepare Field Notes & Parcel Sketches	Oct 1, 2008 to Jul 1, 2010
Final Right-of-Way Map	August 1, 2010

Phase III – Plans Development – (0.25 miles east of FM 1423 to FM 88 - 5.4 Miles)

Begin Plan Development	Aug 1, 2009
Surveying – Field Verification	Jun 1, 2003 to Aug 1, 2009
Geotechnical Investigation	Jun 1, 2003 to Aug 1, 2009
Develop Detailed Plans	Sep 1, 2007 to Aug 1, 2011
TxDOT Review	Aug 1 to Dec 1, 2011
Project Letting	December 9, 2011

Hidalgo County / R. Gutierrez Engineering Corporation
 Nolana Loop – From FM 1426 to FM 88

Revised 04-10-07

EXHIBIT "C"
 Page 2 of 3

* - This schedule is based on the expectations that Federal Funding will be made available for this project on October 1, 2005. This project will become an Hidalgo County MPO funded project.

The **Engineer** will diligently pursue the completion of this work authorization as defined by the milestones and deliverable due dates outlined in the approved work schedule. Whenever possible and when it is considered advantageous to the **Owner**, **Engineer** may commence work items prior to the dates outlined in the approved work schedule.

The **Engineer** will inform the **Owner** (in reasonable advance of the delay) should the **Engineer** encounter delays that would prevent the performance of all work in accordance with the established work schedule.

Revised 04-10-07

Hidalgo County / R. Gutierrez Engineering Corporation
Nolana Loop - From FM 1426 to FM 88

EXHIBIT "C"
Page 3 of 3

R. GUTIERREZ ENGR CORP
SUMMARY

EXHIBIT D1
Cost Proposal

ENGINEERING FEE
Nolana Loop
From FM 1426 to FM 88

TASK	CONTRACT AMOUNT	FEE BREAKDOWN	
		PART 1 WORK (2.25 MI)	PART 2 WORK (2.40 MI)
PHASE I - PRELIMINARY ENGINEERING			
SURVEYING - SETTING PANELS FOR FLIGHT	\$55,000	\$55,000	\$0
SCHEMATIC DESIGN	\$187,000	\$187,000	\$0
ENVIRONMENTAL ASSESSMENT	\$90,000	\$90,000	\$0
PUBLIC HEARING	\$20,000	\$20,000	\$0
SUB-TOTAL	\$362,000	\$362,000	\$0
PHASE II - RIGHT-OF-WAY ACQUISITION			
R.O.W. MAP	\$220,000	\$50,000	\$50,000
SUB-TOTAL	\$220,000	\$50,000	\$50,000
PHASE III - PLANS DEVELOPMENT			
SURVEYING - FIELD VERIFICATION	\$62,000	\$14,091	\$14,091
GEO TECHNICAL INVESTIGATION	\$30,000	\$6,818	\$6,818
ENGINEERING	\$1,196,000	\$271,818	\$271,818
SUB-TOTAL	\$1,288,000	\$292,727	\$292,727
TOTAL LUMP SUM FEE	\$1,860,000	\$694,727	\$694,727

R. Gutierrez Engineering Corporation
Nolana Loop - FM 1426 to FM 88

EXHIBIT "D1"
Page 1 of 1

CHANGE ORDER NUMBER FOUR (4)

PROJECT: MCCOLL ROAD IMPROVEMENTS

DATE OF ISSUANCE: April 3, 2007 **EFFECTIVE DATE:** April 3, 2007

OWNER: HIDALGO COUNTY PRECINCT NO. 2

OWNER's Contract No.: C-06-207-06-20-VGG

CONTRACTOR: Mission Paving Co., Inc. **ENGINEER:** R. Gutierrez Engineering Corporation

P.O. Box 849 130 E. Park Ave.

Mission, TX 78573 Pharr, TX 78577

You are directed to make the following changes in the Contract Documents.

Description:

1. Item 164 - Cell Fiber Seeding (Perm)(Urban) (Clay).
2. Item 164 - Cell Fiber Seeding (Temp)(Warm).
3. Item 168 - Vegetative Watering.
4. Item 644 -Ins Sm. Sn.Sup. & Ass. TY 580(1)SA(T).

Reason for Change Order:

1. Item 164 cell fiber seeding (perm)(urban)(clay) was deleted. Seeding was never applied after construction.
2. Item 164 cell fiber seeding (temp)(warm) was deleted. Seeding was never applied after/during construction.
3. Item 168 Vegetative watering was deleted. Seeding was never applied after/during construction.
4. Item 644 Small sign was deleted. Sign was never put up.

Attachments:

Change in Contract Price:		CHANGE IN CONTRACT TIME:	
Original Contract Price		Original Contract Time for	
\$ 361,805.00		Substantial Completion:	45
			calendar days or dates
Net Changes from previous Change Order		Net change from previous Change Orders	
\$ (6,926.93)		0	
			calendar days
Contract Price prior to this Change Order		Contract Time prior to this Change Order	
\$ 355,878.07		Substantial Completion:	45
			calendar days or dates
Net Increase (decrease) of this Change Order		Net Increase (decrease) of this Change Order	
\$ (10,299.80)		0	
			calendar days
Contract Price with all approved Change Orders	Net % Increase (decrease) from original contract price.	Contract Time with all approved Change Orders	
\$ 345,578.47	(4.50) %	Substantial Completion:	45
			calendar days or dates

RECOMMENDED:
 By: [Signature] P.E.
 Engineer (Authorized Signature)
 Date: 4/3/07

APPROVED:
 By: _____
 Owner (Authorized Signature)
 Date: _____

ACCEPTED:
 By: [Signature], Sec-Treas
 Contractor (Authorized Signature)
 Date: 4-3-07

APPLICATION FOR PAYMENT NO. 4

To: HIDALGO COUNTY PRECINCT NO. 2 (OWNER)
 From: Van Tech Landscaping & Erosion Control Inc. (CONTRACTOR)
 Contract: C-06-098-03-15-VGG
 Project: POND/WETLAND CONSTRUCTION FOR THE NORTH SAN JUAN PARK - HIDALGO COUNTY PRECINCT NO. 2
 OWNER's Contract No. C-06-098-03-15-VGG ENGINEER's Project No. ENG01.002
 For Work accomplished through the date of: 4/10/2007

1. Original Contract Price:		\$	115,060.10
2. Net change by Change Orders and Written Agreements (+ or -):		\$	-
3. Current Contract Price (1 plus 2):		\$	115,060.10
4. Total completed and stored to date:		\$	115,060.10
5. Retainage (per Agreement):			
<u>10</u> % of completed Work:	\$	11,506.01	
_____ % of stored material:	\$	-	
Total Retainage:		\$	11,506.01
6. Total completed and stored to date less retainage (4 minus 5):		\$	103,554.09
7. Less previous Application for Payments:		\$	99,410.00
8. AMOUNT DUE THIS APPLICATION (6 MINUS 7):		\$	14,085.09

HP

569486

7-1287-452-00-122-019-5-739

Req. #92157

Accompanying Documentation:

CONTRACTOR'S Certification:

The undersigned CONTRACTOR certifies that (1) all previous progress payments received from OWNER on account of Work done under the Contract referred to above have been applied on account to discharge CONTRACTOR's legitimate obligations incurred in connection with Work covered by prior Applications for Payment numbered 1 through 4 inclusive; (2) title of all Work, materials and equipment incorporated in said Work or otherwise listed in or covered by this Application for Payment will pass to OWNER at time of payment free and clear of all Liens, security interests and encumbrances (except such as are covered by a Bond acceptable to OWNER indemnifying OWNER against any such Lien, security interest or encumbrance); and (3) all Work covered by this Application for Payment is in accordance with the Contract Documents and not defective.

Dated 4/13/07

Van Tech Landscaping & Erosion Control Inc.
CONTRACTOR

By: Vanque DeLeon

State of TEXAS

County of HIDALGO

Subscribed and sworn to before me this 13th day of APRIL 2007

Notary Public [Signature]
 My Commission expires: 12/16/07



Payment of the above AMOUNT DUE THIS APPLICATION is recommended.

Dated 4/13/07

R. GUTIERREZ ENGINEERING CORPORATION
ENGINEER

By: [Signature]

INVOICE RECEIVED BY: [Signature] ON 4/16/07
 GOODS/SERVICES RECEIVED BY: [Signature] ON 4/16/07