

THE STATE OF TEXAS §
 §
COUNTY OF HIDALGO §

CONTRACT FOR SERVICES
C-08-112-03-25

THIS AGREEMENT is made effective the 25th day of **March, 2008**, by and between the **COUNTY OF HIDALGO, TEXAS**, ("County") and **Javier Hinojosa Engineering**. ("Engineer").

WITNESSETH:

WHEREAS, County has determined that the services of professional engineers are sometimes necessary to carry out the required services related to "**Develop Various Road Projects**" for **Hidalgo County Precinct No. 3** and

WHEREAS, pursuant to Article 2254.004, "The Professional Services Procurement Act," Texas Government Code, the County requested proposals from professional engineers to assist the County by providing engineering services; and

WHEREAS, the County has selected the engineer to provide construction materials testing services within the County of Hidalgo, Texas.

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

1. **Scope of Services.** Engineer agrees to provide to County the services shown in Exhibit "A" attached hereto and entitled "Services to be Provided by the Engineer." The County will provide to Engineer the services described in Exhibit "B", "Services to be Provided by County."
2. **Term.** This Contract becomes effective when fully executed by both parties and will terminate March 25, 2009 unless sooner terminated as provided herein. The Engineer will not begin work or incur costs until authorized in writing by the County for each work authorization.

3. **Compensation.** The maximum amount payable under this Contract shall not exceed the amount agreed for each work authorization unless an amendment is executed as provided hereinafter. The Engineer is authorized to submit periodic requests for payment within thirty days after completion of each work authorization. The request for payment shall be made using forms acceptable to the County and shall show the total amount earned to the date of submission and the amount due and payable as of the date of the current billing. Upon receipt of said request for payment, County shall submit a requisition for payment of said services in the customary manner provided for payments utilized by Hidalgo County, Texas. Engineer agrees to separately account for the receipt and/or expenditure of funds received pursuant to this Contract and to keep adequate books and records of all such receipts and/or expenditures. All payments to Engineer shall be mailed to the address shown in numbered paragraph 21, hereof.

4. **Progress.** Upon acceptance of a work authorization, the Engineer shall undertake and complete the authorized work. The County or the Engineer can request conferences to be provided at the Engineer's office, the office of the County, or at other agreed upon locations.

5. **Inspection of Work.** The County has the right at all reasonable times to inspect or otherwise evaluate the work performed or being performed hereunder and the premises in which it is being performed. If any inspection or evaluation is made on the premises of the Engineer, or a subcontractor, the Engineer shall provide and require its subcontractor to provide all reasonable facilities and assistance for the safety and convenience of the inspectors in the performance of their duties. All inspections and evaluations shall be performed in such a manner as will not unduly delay the work.

6. **Amendments.** If it becomes necessary at any time during the contract period to change the scope of work, the contract period, the maximum amount payable, the complexity, or

the character of this contract, an amendment must be prepared and executed within the contract period. The County retains the right to reject any such amendment proposed by the Engineer unless the County finds the proposed amendment necessary to complete the work authorized herein. Any such amendments be made in writing agreed to by all parties hereto and duly executed before the end of the contract period as specified.

If the County finds it necessary to require changes in completed work because of errors made by the Engineer, the County shall require the Engineer to correct the work at no cost to the County and without amendment to the contract. If the changes are made at the request of the County and are not due to errors of the Engineer, the County will reimburse the Engineer for the additional work at the same rate of pay established in Exhibit "C," "Basis for Payment." If payment for the additional work will cause the maximum amount payable to be exceeded, an amendment shall be executed in accordance with the terms of this provision.

7. **Reporting.** The Engineer shall promptly advise the County in writing of events which have a significant impact upon the contract, including:

1. Problems, delays, or adverse conditions which will materially affect the ability to meet time schedules and goals, or preclude the attainment of project work units by established time periods. This disclosure shall be accompanied by a statement of the action taken, or contemplated, and any County or, if Federal funds are involved, Federal assistance needed to resolve the situation.
2. Favorable developments or events which enable meeting time schedules and goals sooner than anticipated or producing more work units than originally projected.

8. **Ownership of Documents.** Upon completion or termination of this contract, all

documents prepared by the Engineer or furnished to the Engineer by the County shall be delivered to and become the property of the County. All sketches, photographs, calculations, and other data prepared under this contract shall be made available, upon request, to the County without restriction or limitation on their further use. The Engineer may, at its own expense, have copies made of the documents or any other data furnished the County under this contract.

9. **Independent Contractor.** Engineer must comply with all applicable Hidalgo County policies and with any applicable federal, state or local laws, regulations, orders or ordinances applicable to the services provided by Engineer under this Contract. Notwithstanding the foregoing sentence, Engineer represents and maintains that it is an independent contractor and is not an employee of Hidalgo County, Texas, or any agency thereof, and represents and warrants that it does not desire or request any fringe benefits provided to employees of Hidalgo County, Texas, and/or any agency thereof, including, but not limited to benefits associated with Hidalgo County's civil service program. Engineer agrees to be responsible for any federal income tax, withholding or social security tax liability that might arise from payments received hereunder.

10. **Voluntary Termination.** Engineer and County agree that either party may terminate this Contract at any time for any reason or no reason at all upon the giving of thirty (30) days prior written notice to the other party.

11. **Insurance.** Engineer agrees to provide liability insurance covering its activities in providing the services for County in an amount not less than the minimum amounts prescribed by the Texas Tort Claims Act, §100.001, et seq., Texas Civil Practices and Remedies Code, and shall furnish Department a certificate issued by the insurer that such insurance is in full force and effect.

12. **No Assignment.** Except as otherwise herein provided, Engineer may not assign the obligations or rights under this contract to any person without the prior written consent of County.

13. **Termination Date.** Unless earlier terminated as herein provided, this Contract shall terminate on completion of project.

14. **Conflict.** Nothing in this Contract shall be construed so as to require the commission of any act contrary to law, and whenever there is any conflict between any provision of this Contract and any present or future law, ordinance or administrative, executive or judicial regulation, order or decree, or amendment thereof, contrary to which the parties have no legal right to contract, the latter shall prevail, but in such event the affected provision or provisions of this Contract shall be modified only to the extent necessary to bring them within the legal requirements and only during the time such conflict exists.

15. **Termination by County.** If Engineer fails to deliver quality service, fails to achieve the defined goals, outcomes, strategies and outputs set by County, or if Engineer fails to comply with any conditions in this Contract, then County shall have the right to terminate this Contract upon the giving of ten (10) days prior written notice to Engineer.

16. **No Waiver.** No waiver by County of any breach of any provision of this Contract shall be deemed to be a waiver of any preceding or succeeding breach of the same or any other provision hereof.

17. **Entire Agreement.** This Contract contains the entire agreement between the parties hereto, and each party acknowledges that neither has made (either directly or through any agent or representative) any representations or agreements in connection with this Contract not specifically set forth herein. This Contract may be modified or amended only by agreement in writing executed by County and Engineer, and not otherwise.

18. **Venue.** This Contract shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Hidalgo County, Texas. The parties hereby consent to personal jurisdiction in Hidalgo County, Texas.

19. **Hold Harmless.** In the event Engineer should cause, either directly or indirectly, damage, loss, destruction, liability, or claims against the other party as a result of intentional conduct, negligence or otherwise, Engineer shall hold harmless and indemnify County from any and all obligations, liabilities, causes of action, lawsuits, damages, and assessments, including legal fees, etc., that result from the Engineer's intentional actions or negligence. This indemnification clause shall survive this Contract and be enforceable as a separate agreement in the event its survival and enforcement becomes necessary.

20. **Attorney's Fees.** In the unlikely event that a dispute occurs which is litigated or arbitrated, or a cause of action in law or equity is filed concerning the operation, construction, interpretation, or enforcement of this Contract, the losing party shall bear the cost of the attorney's fees incurred by the prevailing party and any and all costs applicable thereto, including, but not limited to, court costs, deposition fees, expert witness fees, out-of-pocket expenses and travel expenses which are incurred by the prevailing party.

21. **Notices.** Except as may be otherwise specifically provided in this Contract, all notices, demands, requests or communications required or permitted hereunder shall be in writing and shall either be (i) personally delivered against a written receipt, or (ii) sent by registered or certified mail, return receipt requested, postage prepaid and addressed to the parties at the addresses set forth below, or at such other addresses as may have been theretofore specified by written notice delivered in accordance herewith:

If to County: County of Hidalgo
Attention: County Judge
100 E. Cano, 2nd Floor
Edinburg, Texas 78539

If to Engineer: Javier Hinojosa Engineering
Attention: Javier Hinojosa, P.E., President
416 E. Dove Avenue
McAllen, Texas 78504

Each notice, demand, request or communication which shall be delivered or mailed in the manner described above shall be deemed sufficiently given for all purposes at such time as it is personally delivered to the addressee or, if mailed, at such time as it is deposited in the United States mail.

22. **Execution of Documents.** The parties hereto covenant and agree that they will execute such other and further instruments and documents as are or may become necessary or convenient to effectuate and carry out the terms of this Contract.

23. **Binding Contract.** This Contract 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 contract.

24. **Gender.** All pronouns used in this Contract shall include the other gender, whether used in the masculine, feminine or neuter gender, and the singular shall include the plural whenever and as often as may be appropriate.

25. **Authority.** The execution and performance of this Contract by County and Engineer have been duly authorized by all necessary laws, resolutions or corporate action, and this Contract constitutes the valid and enforceable obligations of County and Engineer in accordance with its terms.

26. **Engineer's Seal.** All documents and data furnished by the Engineer to the County shall bear the Engineer's professional seal.

EXECUTED as of the day and year first written above.

Approved by Commissioners' Court on, March 25, 2008

Approved as to form:
Atlas & Hall, LLP

By: _____

Date: _____

COUNTY:

COUNTY OF HIDALGO, TEXAS

By: _____
Juan D. Salinas, III, County Judge

Date: _____

ENGINEER:

By: _____

Printed Name: _____

Title: _____

Date: _____

ATTEST:

Arturo Guajardo, Jr., County Clerk

Date: _____

EXHIBIT "A"

Services to be Provided by the Owner

The following provides an outline of the services to be provided by the **Owner** in the development of the **Project** (as defined and more particularly identified in EXHIBIT "A" attached to this Agreement).

General

The Owner will provide to the **Engineer** the following:

- (1) Payment for work performed by the **Engineer** and accepted by the **Owner** in accordance with Article 8 of this Agreement.
- (2) Assistance to the **Engineer**, as necessary, to obtain the required data and information from other local, regional, State and Federal agencies that the **Engineer** cannot easily obtain.
- (3) Provide any available relevant data the **Owner** may have on file concerning the project.
- (4) Provide timely review and decisions in response to the **Engineer's** request for information and/or required submittals and deliverables, in order for the **Engineer** to maintain the agree-upon work schedule prepared in accordance with **EXHIBIT "A"** attached to this Agreement.
- (5) Attend and participate in progress meetings as required and as coordinated and conducted by the **Engineer**.

EXHIBIT “B”
Services to be provided by the Engineer

The following provides an outline of the services to be provided by the **Engineer** in the development of the **Project**.

The ENGINEER will evaluate and design the Paving Improvements as follows:

- Review existing conditions to develop the design criteria;
- Conduct field surveys to obtain information on existing conditions and topography on proposed roadways;
- Identify alignments and right of ways of proposed roadways;
- Develop typical cross sections for proposed roadways;
- Prepare plans and specifications for the improvements;
- Assist in bidding of the improvements;
- Provide construction staking and periodic inspection services during the construction phase of the improvements.

PART 6. RESPONSIBILITIES AND OBLIGATIONS

This Authorization does not waive the parties' responsibilities and obligations provided under the Agreement.

PART 7. ACKNOWLEDGEMENT AND CONFIRMATION

Acknowledgement and confirmation by Hidalgo County Precinct No. ____
Commissioner _____ as to content and detail of this Work Authorization No. #
_____.

HIDALGO COUNTY
COMMISSIONER PRECINCT NO. __:

BY: _____

PART 8. ACCEPTANCE AND APPROVAL

This Work Authorization is hereby accepted, approved by Hidalgo County
Commissioners' Court on ____ (DATE) as indicated below and effective as of ____
day of _____, 2007.

THE ENGINEER:
(INSERT NAME OF COMPANY)

THE OWNER:
HIDALGO COUNTY

By: (TYPE NAME)

By: Juan D Salinas III, County Judge
or Presiding Officer

ATTEST:

by: Arturo Guajardo Jr., County Clerk

LIST OF ATTACHMENTS

- ATTACHMENT "A" - Service to be Provided by the Owner
- ATTACHMENT "B" - Services to be Provided by the Engineer
- ATTACHMENT "C" - Work Schedule
- ATTACHMENT "D" - Cost Proposal

EXHIBIT "D"
ENGINEER'S CONTRACT RATES

HOURLY RATES:

Project Principal	\$ 75.00/Hr.
Project Engineer	\$ 70.00/Hr.
R.P.L.S.	\$ 70.00/Hr.
G.P.S. Survey Crew	\$ 95.00/Hr.
3 Man Survey Crew	\$ 80.00/Hr.
2 Man Survey Crew	\$ 70.00/Hr.
Party Chief	\$ 40.00/Hr.
CADD/Designer	\$ 40.00/Hr.
Clerical	\$ 25.00/Hr.

ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
11/27/2007

PRODUCER Davis Insurance Agency
2030 E. Griffin Parkway
Mission, Texas 78572

(956) 581-9838

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURED JAVIER HINOJOSA ENGINEERING
JAVIER HINOJOSA
416 E. DOVE
MCALLEN, TX 78504

INSURERS AFFORDING COVERAGE	NAIC #
INSURER A: NATIONAL LLOYDS INSURANCE CO	
INSURER B: FARMERS INSURANCE EXCHANGE	
INSURER C: FARMERS INSURANCE EXCHANGE	
INSURER D: EVANSTON INSURANCE COMPANY	
INSURER E:	

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR ADD'L LTR	INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS								
A		GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	CP9002401-03	6/28/2007	6/28/2008	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ EXCL GENERAL AGGREGATE \$ 1,000,000 PRODUCTS - COM/POP AGG \$ EXCL								
B		AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS	069398805	3/29/2007	3/29/2008	COMBINED SINGLE LIMIT (Ea accident) \$ 500,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$								
		GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN EA ACC \$ AUTO ONLY: AGG \$								
		EXCESS/UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE DEDUCTIBLE \$ RETENTION \$				EACH OCCURRENCE \$ AGGREGATE \$ \$ \$ \$								
C		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below	N0707-71-94	12/1/2007	12/1/2008	<table border="1"> <tr> <td>WC STATU-TORY LIMITS</td> <td>OTH-ER</td> </tr> <tr> <td>E.L. EACH ACCIDENT</td> <td>\$ 100,000</td> </tr> <tr> <td>E.L. DISEASE - EA EMPLOYEE</td> <td>\$ 100,000</td> </tr> <tr> <td>E.L. DISEASE - POLICY LIMIT</td> <td>\$ 500,000</td> </tr> </table>	WC STATU-TORY LIMITS	OTH-ER	E.L. EACH ACCIDENT	\$ 100,000	E.L. DISEASE - EA EMPLOYEE	\$ 100,000	E.L. DISEASE - POLICY LIMIT	\$ 500,000
WC STATU-TORY LIMITS	OTH-ER													
E.L. EACH ACCIDENT	\$ 100,000													
E.L. DISEASE - EA EMPLOYEE	\$ 100,000													
E.L. DISEASE - POLICY LIMIT	\$ 500,000													
D		OTHER PROFESSIONAL LIABILITY	AE812316	12/4/2007	12/4/2008	PER CLAIM \$1,000,000								

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

CERTIFICATE HOLDER

HIDALGO COUNTY
ATTN: MARTA SALAZAR-PURCHASING DEPT
2812 S BUSINESS 281
EDINBURG, TX 78539

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.
 AUTHORIZED REPRESENTATIVE 