

THE STATE OF TEXAS §
 §
COUNTY OF HIDALGO §

AGREEMENT FOR PROFESSIONAL SERVICES
C- 08-417-12-09

THIS AGREEMENT is made, by and between HIDALGO COUNTY, acting herein by and through the Commissioner’s Court, hereinafter called the “Owner”, and L & G Consulting Engineers Inc. d/b/a L & G Engineering, Professional Engineers of Mercedes, Texas, hereinafter called the “Engineer”.

WITNESSETH:

WHEREAS, the Owner desires to contract with the Engineer to provide professional engineering services for “FM 493 from US 281 (Military Highway) to Bus 83” (for preparation of Schematics, Environmental Assessments, Public Involvement, ROW Mapping, Surveying, Outfall Identification and Hydrologic Map, Roadway Design, ROW Acquisition Services and Construction Inspection and Construction Material Testing) project in Hidalgo County Precinct No. 1 hereinafter referred to as the “Project.

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

ARTICLE 1. Employment of Engineer. The Owner agrees to employ the Engineer and the Engineer agrees to perform professional engineering services in connection with the Project as stated in the articles to follow and for having rendered such services, the owner agrees to pay the Engineer compensation as stated in the articles to follow.

ARTICLE 2. Character and Extent of Services. This Agreement will provide for the development of the Project with the following:

2.1 Scope of Work. The Owner will furnish items and provide those services for the development of the Project and fulfillment of this Agreement, as identified in EXHIBIT "A" *Services to be Provided by the Owner*, attached hereto and made a part of this Agreement as identified in EXHIBIT "B"– *Services to Provided by the Engineer*, attached hereto and made a part of this agreement.

2.2 Classification of Services For this Agreement, the professional services to be provided by the Engineer, as more particularly identified in EXHIBIT "B", attached hereto.

2.3 Schedule of Work. The Engineer shall prepare a schedule of work (hereinafter referred to as "Work Schedule") in accordance with the terms identified in EXHIBIT "C" – *Work Schedule*, attached hereto and made a part of this Agreement.

ARTICLE 3. Period of Service. Upon execution of this Agreement, the **Engineer** shall proceed with the work outlined under Article 2 hereof.

3.1 Termination Date. This Agreement shall terminate upon completion of projects (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. The **Owner** assumes no liability or obligation for payment to the **Engineer** for work performed or costs incurred by the **Engineer** prior to the date authorized by the **Owner** for the **Engineer** to begin work, during periods when work is suspended, or subsequent to the **Termination Date**.

3.2 Extension of the Termination Date. The **Engineer** shall notify the **Owner** in writing as soon as possible if it is determined, or reasonably anticipated, that the work under this Agreement cannot be completed before the **Termination Date**, and the **Owner** may, at the **Owner's** sole discretion, extend the **Termination Date** by written supplemental agreement as provided in Article 8 hereof. The **Engineer** shall allow adequate time for review and approval by the **Owner** of the written notice and request by the **Engineer** to extend the **Termination Date**.

3.3 Suspension of Work. Should the **Owner** desire to suspend the work under this Agreement, but not terminate this Agreement, the **Owner** shall provide thirty (30) calendar days verbal notification to the **Engineer**, followed by written confirmation from the **Owner** to the **Engineer** to that effect. The thirty-day notice may be waived as agreed in writing by both the **Owner** and the **Engineer**. The work under this Agreement may be reinstated and resumed in full force and effect within sixty (60) days of receipt of written notice from the **Owner** to the **Engineer**. The sixty-day notice may be waived as agreed in writing by both the **Owner** and the **Engineer**.

If the **Owner** suspends the work, the **Termination Date** as identified above is not affected, and this Agreement will terminate on the date specified, 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**.

3.4 Termination of Agreement. This Agreement may be terminated before the stated **Termination Date** identified in Article 3.1 herein by any of the following conditions:

- (1) **Commitment of Current Revenues.** In the event that, during any term hereof, the **Owner** does not appropriate sufficient funds to meet to the obligations of this Agreement, the **Owner** may terminate this Agreement upon thirty (30) days written notice to the **Engineer**. The

Owner agrees, however, to use reasonable efforts to secure funds necessary for the continued performance of this Agreement. The parties intend this provision to be a continuing right to terminate this Agreement at the expiration of each budget period of the **Owner** pursuant to the provisions of Tex. Loc. Govt. Code Ann. §271.903 (Vernon Supp. 1995).

- (2) By mutual agreement and consent, in writing, of both the **Engineer** and the **Owner**.
- (3) By the **Owner**, upon failure of the **Engineer** to fulfill the **Engineer's** obligations set forth herein in a satisfactory manner as determined by the **Owner** and in sole opinion of the **Owner**, after the **Owner** provides written notice to the **Engineer** of such failure and the **Engineer** has not corrected such failure within (30) days of such written notice by the **Owner**.
- (4) By the **Engineer**, upon failure of the **Owner** to fulfill the **Owner's** obligations set forth herein, after the **Engineer** provides written notice to the **Owner** of such failure and the **Owner** has not corrected such failure within thirty (30) days of such written notice by the **Engineer**.

(5) By the **Owner** without cause upon thirty (30) days written notice to the **Engineer**.

(6) By satisfactory completion of all services and obligations described herein.

Should the **Owner** terminate this Agreement as herein provided, no fees other than fees due and payable at the time of termination shall thereafter be paid to the **Engineer** notwithstanding anything herein to the contrary. In determining the value of the work performed by the **Engineer** prior to termination, the **Owner** shall be the sole judge of the value of such work performed. Compensation for work at termination will be based on a percentage of the work completed at that time. Should the **Owner** terminate this Agreement under (5) of the paragraph above, the amount charged during the thirty (30) day notice period shall not exceed the amount charged during the preceding ninety (90) days.

If the termination of this Agreement is due to the failure of the **Engineer** to fulfill the **Engineer's** obligations under this Agreement, the **Owner** may take over the Project and prosecute the work to completion. In such case, the **Engineer** shall be liable to the **Owner** for any additional cost occasioned by the **Owner**.

If the **Engineer** defaults in the performance of this Agreement or if the **Owner** terminates this Agreement for fault on the part of the **Engineer**, the **Owner** will give consideration to payment of an amount in settlement to include: the actual costs incurred by the **Engineer** in performing the work to the date of default, the amount of work required which was satisfactorily completed to date of default, the value of the work which is usable to the **Owner**, the cost to the **Owner** of employing another consultant and/or firm to complete the work required and the time required to do so, and other factors which affect the value to the **Owner** of the work performed at the time of default. This Agreement shall not be considered as specifying the exclusive remedy for any default by the **Engineer**, but all remedies existing at law and in equity may be availed of by either party and shall be cumulative.

The termination of the Agreement and payment of an amount in settlement as prescribed above shall extinguish all rights, duties, and obligations of the **Owner** and the **Engineer** under this Agreement, except the obligations set forth in Articles 11.2, 12, 13, 15, 16, 17, 18.3, 19, 22 and 26 hereto.

ARTICLE 4. Progress and Coordination. The **Engineer** shall, from time to time during the progress of the work, confer with the **Owner**. The **Engineer** shall prepare and present such information as may be pertinent and necessary, or as may be

requested by the Owner, in order to evaluate features of the Engineer's services and work.

At the request of the Owner or the Engineer, conferences shall be provided at the Engineer's office, the office of the Owner, or at other locations designated by the Owner. These conferences shall also include evaluation of the Engineer's services and work when requested by the Owner.

All applicable study reports shall be submitted in preliminary form for approval by the Owner before the final report is issued. The Owner's comments regarding the Engineer's preliminary report will be addressed by the Engineer in the final report.

If funds by other agencies or entities are to be used for the development of the project under this Agreement, the Engineer's services and work will be subject to periodic review and approval by other agencies or entities, including those of the city, county, state and/or federal agencies.

Should it be determined that the progress in the production of the Engineer's services and work does not satisfy the requirements of the approved Work Schedule as provided by Exhibit "C", attached hereto, the Owner shall review the approved Work Schedule with the Engineer to determine the corrective action needed by either the Owner or the Engineer.

The **Engineer** shall promptly advise the **Owner** in writing of events which have a significant impact upon the progress of the **Engineer's** services and work and the approved **Work Schedule**, including:

- (1) problems, delays, adverse conditions which will materially affect the ability to attain contract objectives, prevent the meeting of time schedules and goals, or preclude the timely completion and submittal of **Project** deliverables by the **Engineer** within established time periods; this disclosure will be accompanied by a statement by the **Engineer** of recommended or immediate action taken, or contemplated, and any **Owner** or other agency or entity assistance needed to resolve the situation: and
- (2) favorable developments or events which enable meeting the **Work Schedule** goals sooner than anticipated.

ARTICLE 5. Compensation and Fees. For and in consideration of the

services to be

rendered by the **Engineer**, the **Owner** shall compensate the **Engineer** as follows:

5.1 **Basic Services.** 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 maximum amount payable by the **Owner** to the **Engineer** for

Services, subject to adjustment in accordance with Article 6.1 herein, will be provided in each work authorization issued. An outline and breakdown of the **Services Fee** is more particularly identified in EXHIBIT "D1"–*Fee Breakdown*, attached hereto and made a part of this Agreement. Payments to the Engineer for *Services* shall be made by the Owner, upon presentation by the Engineer of the monthly **Request for Payment**, in accordance with the terms and provisions of Article 6 herein.

5.2 Special Services. Those services that may be required to provided by the Engineer as *Special Services* are set forth below and more particularly described in EXHIBIT "B", attached hereto. For and in consideration of these *Special Services* rendered as required by the Engineer, the Owner shall pay the Engineer a negotiated lump sum fee (hereafter referred to as "**Special Services Fee**") at the hourly labor rates and non-labor rates (hereinafter referred to as "**Contract Rates**") specified in EXHIBIT "D" – *Contract Rates*, attached hereto and made a part of this Agreement, and as follows:

1. **RESIDENT OR SITE ENGINEER, INSPECTOR** Actual performance of services of project site engineer, resident engineer and/or inspector, if required by Owner.
2. **DOCUMENT COPIES** Actual performance and/or providing of additional copies (over 10) of report; additional copies (over 10) of plans (contract drawings), specifications and estimates (PS&E); additional copies (over 10) of bidding documents; additional copies (over 10) of as-built drawings.
3. **EXTRA TRAVEL** Extra travel required of Engineer and authorized by Owner to points outside of Hidalgo County.

4. **EXPERT WITNESS** Assistance to the **Owner** as expert witness in any litigation with third parties, arising from the development or construction of the **Project**.
5. **MISCELLANEOUS.** Investigations involving detailed consideration of operation, maintenance and overhead expenses and (unless otherwise agreed) the preparation of rate schedules, earning and expense statements; preparation of feasibility studies; environmental document preparation; appraisals, valuations, and material audits; or inventories required for certification of force account construction performed by the **Owner**; preparation of change orders for extra work done by the **Contractor**.

ARTICLE 6. Method of Payment.

6.1 Request for Payment. Payments to the **Engineer** for services rendered will be made while work is in progress as executed through a lump sum fee assigned to each work authorization (hereinafter referred to as "**Work Authorization**") in accordance with **Article 7** herein. For each **Work Authorization**, the **Engineer** shall prepare and submit to the **Owner** monthly progress reports in sufficient detail to support the progress of the work and in support of a request for payment (hereinafter referred to as "**Request for Payment**"). The progress report shall indicate the percent completion of the work accomplished by the **Engineer** during the billing period and to the date of the **Request for Payment**. On or before noon of the first Monday of each month during the performance of the services, the **Engineer** shall submit to the **Owner** for approval a **Request for Payment**. Payment of the lump sum fee for each **Work Authorization**

identified in the **Request for Payment** will be in proportion to the percent completion of the work tasks identified in such **Work Authorizations** together with a detailed breakdown of the amount and the sum of all prior payments. The **Owner** shall review each such **Request for Payment** and may make such exceptions as the **Owner** reasonably deems necessary or appropriate under the circumstances then existing. About ten (10) working days after the Commissioners Court of the **Owner** meets approving such payment, the **Owner** shall make payment to the **Engineer** in the amount approved as aforesaid subject to Article 6.4 herein and below.

If the **Project**, or any portion(s) thereof, are deleted or otherwise not constructed, compensation to the **Engineer** by the **Owner** for the **Project** or such portions of the project shall be only the amounts paid the **Engineer** for actual work performed in accordance with the **Work Authorization(s)** approved by the **Owner**.

6.2 Final Payment. After final completion of the work and acceptance thereof by the **Owner**, the **Engineer** shall submit a final request for payment ("**Final Request for Payment**") which shall set forth all amounts due and remaining unpaid to the **Engineer** and upon approval thereof by the **Owner**, the **Owner** shall pay to the **Engineer** the amount due ("**Final Payment**") under such **Final Request for Payment** in accordance with the provisions of Article 6.1 hereof. The **Final Payment** shall not be made until the **Engineer** delivers to the **Owner** an affidavit that so far as the **Engineer** has knowledge or

information any and all amounts due for materials and services over which the **Engineer** has control have been paid.

6.3 Qualification on Obligations to Pay. Any provision hereof to the contrary notwithstanding, the **Owner** shall not be obligated to make any payment (whether a payment under Article 6.1 hereof or **Final Payment**) to the **Engineer** hereunder if any one or more of the following conditions precedent exist:

- (1) The **Engineer** is in default of any of its obligations hereunder or otherwise is in default under this Agreement or under any contract documents related to this Agreement;
- (2) Any part of such payment is attributable to the **Engineer's** services which are not performed in accordance with this Agreement; provided, however, such payment shall be made as to the part thereof attributable to the **Engineer's** services which were performed in accordance with this Agreement.
- (3) The **Engineer** has failed to make payments promptly to consultants or other third parties used in connection with the **Project** for which the **Owner** has made payment to the **Engineer**;
- (4) If the **Owner**, in good faith judgement, determines that the portion of the compensation then remaining unpaid will not be sufficient to complete the **Engineer's** services in accordance with this Agreement, no additional payments will be due the **Engineer** hereunder unless and until the **Engineer**, at its sole cost, performs a sufficient portion of the **Engineer's** services so that such portion of the compensation then remaining unpaid is determined by the **Owner** to be sufficient to so complete the **Engineer's** services.

6.4 No partial payment made hereunder shall be or construed to be final acceptance or approval of that part of the **Engineer's** services to which such partial

payment related or relieves the Engineer of any of its obligations hereunder with respect thereto.

6.5 The Engineer shall promptly pay all bills for labor and material performed and furnished by others in connection with the performance of the Engineer's services.

6.6 Waiver. The making of the Final Payment shall constitute a waiver of all claims by the Owner except those arising from (1) faulty or defective services of the Engineer appearing after completion of the Project. (2) failure of the Engineer's services to comply with the requirements of this Agreement or any contracts or Agreements related to the Project, or (3) terms of any special warranties required by this Agreement or provided at law or in equity. The acceptance of Final Payment shall constitute a waiver of all claims by the Engineer except those previously made in writing and identified by the Engineer as unsettled at the time of the Final Request for Payment.

ARTICLE 7. **Work Authorization.** After execution of this Agreement, the Engineer shall proceed with the work outlined under Article 2 hereof, only as authorized by the Owner through an agreed Work Authorization document in the form identified in EXHIBIT "E"– *Work Authorization Form*, attached hereto and made a part of this Agreement. The Engineer will identify, as approved by the Owner, the needed services for the Project, as required through the course of the development to the Project. The Owner shall authorize the Engineer to perform one or more of the agreed tasks identified in EXHIBIT

"B", attached hereto, in the form of individual work authorizations. Upon authorization from the Owner, the Engineer will prepare a **Work Authorization** document, which will include a description of the work to be performed, including a description of the tasks and milestones, a work schedule, and an estimated cost proposal agreed upon by the Owner and the Engineer. The estimated cost proposal shall set forth in detail the computation of the cost of each work task, at the hourly rates established and identified in **EXHIBIT "D"**, attached hereto. The **Work Authorizations** shall not waive the Owner's and the Engineer's responsibilities and obligations established in this Agreement.

The estimated cost proposal for each **Work Authorization**, developed by the Engineer and approved by the Owner shall be used by the Owner to appropriate a purchase order for the **Work Authorization**. Each executed **Work Authorization** shall become a part of this Agreement. Upon satisfactory completion of the **Work Authorization**, the Engineer shall submit the Project's deliverables as specified in the executed **Work Authorization** to the Owner for review and acceptance.

Work included in a **Work Authorization** shall not begin until the Owner and the Engineer have signed the **Work Authorization**. All work must be completed on or before the completion date specified in the **Work Authorization**, unless extended by written agreement by the Engineer and the Owner. The Engineer shall promptly notify the Owner of any event that will affect completion of the **Work Authorization**. All **Work**

Authorizations must be executed and completed by both the **Engineer** and the **Owner** within the period established for this Agreement as specified in Article 3 hereof.

The final acceptance by the **Owner** of each **Work Authorization** for the **Project** shall serve as evidence of completion, on the part of the **Engineer**, of all services under this Agreement insofar as they pertain to that portion of work on the **Project** identified in the applicable work authorization.

ARTICLE 8. Supplemental Agreements. The terms of this 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**. All supplemental agreements will be developed in the form identified in **EXHIBIT "F" – *Supplemental Agreement Form***, attached hereto and made a part of this Agreement, and incorporated herein by reference as "**Supplemental Agreement**".

If determined appropriate by the **Owner**, additional compensation to the **Engineer** for (1), (2) and/or (3) above shall be paid as a negotiated lump sum fee at the **Contract Rates** specified in **EXHIBIT "D"**, attached hereto. The negotiated lump sum fee shall be incorporated into the **Supplemental Agreement**.

Any **Supplemental Agreement** must be executed by both the **Engineer** and the **Owner** prior to the **Termination Date** specified in Article 3 hereof.

It is distinctly understood and agreed that no claim by the **Engineer** for additional work, as identified in Article 9 hereof, or changes or revisions in work, as identified in Article 10 hereof, shall be made by the **Engineer** until full execution of the **Supplemental Agreement** and authorization to proceed is granted by the **Owner**. The **Owner** reserves the right to withhold payment to the **Engineer** pending verification of satisfactory work performed by the **Engineer**.

ARTICLE 9. Additional Work. If the **Engineer** is of the opinion that any work it has been directed to perform is beyond the scope of this Agreement and constitutes extra work, the **Engineer** shall promptly notify the **Owner** in writing. In the event the **Owner** finds that such work does constitute extra work, the **Owner** shall so advise the **Engineer** and a written supplemental agreement will be executed between the **Owner** and the **Engineer** as provided herein. The **Engineer** shall not perform any proposed additional work or incur any additional cost prior to the execution by both the **Engineer** and the **Owner** of a supplemental agreement. Additional compensation from the **Owner** to the **Engineer** shall be paid as a negotiated lump sum fee at the Contract Rates specified in **EXHIBIT "D"** attached hereto. The negotiated lump sum fee shall be incorporated into the supplemental agreement as specified in Article 8 hereof. The **Owner** shall not be

liable or under any obligation to compensate the **Engineer** for work performed or costs incurred by the **Engineer** relating to additional work not directly associated with the performance of the work authorized in this Agreement or as amended through supplemental agreement.

ARTICLE 10. Changes or Revisions in Work. If the **Owner** finds it necessary to request changes to the work, and the changes are within the applications of sound engineering principles, the **Engineer** shall make such revisions if requested and directed by the **Owner**.

10.1 Preliminary Work. The **Engineer** will make, without expense to the **Owner**, such revisions of any preliminary reports or drawings as may be required to meet the needs of the **Owner** and the applications of sound engineering principles.

10.2 Previously Approved or Satisfactorily Completed Work. If the **Owner** funds it necessary to request the **Engineer** to make changes to work previously approved by the **Owner** or work satisfactorily completed for which the **Owner** approves or, after a definite plan has been approved by the **Owner**, if a decision is subsequently made by the **Owner**, which for proper execution involves extra services and expenses for changes in or additions to the drawings specifications or other documents, this will be considered as additional work, and compensation from the **Owner** to the **Engineer** will be in accordance with Article 9 hereof.

10.3 Project Delays. If the **Engineer** is required to perform additional work due to delays by the imposition of causes not within the **Engineer's** control, such as by the re-advertisement of bids or by the delinquency or insolvency of contractors, such work associated with these delays shall be considered additional work, and the **Engineer** shall be compensated by the **Owner** for such extra services and expense in accordance with Article 9 hereof.

10.4 Reduction of Project Cost. Notwithstanding any provision herein to the contrary, in the event it is necessary for the **Owner** to require changes in the final plan of the **Project** to enable it to reduce the construction cost of the **Project** to an amount within the sum estimated by the **Engineer**, the **Engineer** will be required to make such revisions or changes. These changes will only be considered additional work by the **Engineer**, if the **Engineer** previously provided these same changes as options to the **Owner** at the stage of preliminary work or prior to the approval of the final plan for the **Project**, and the option or options were not selected or approved by the **Owner** to be incorporated into the final plan of the **Project**. Payment for this additional work will then be made to the **Engineer** in accordance with Article 9 hereof. If the **Engineer** failed to provide these changes as an option or options to the **Owner** at the stage of preliminary work or prior to the approval of the final plan of the **Project**, these changes will not be considered additional work and no additional compensation will be made to the **Engineer**.

ARTICLE 11. Ownership and Release of Documents.

11.1 Ownership of Documents. Original drawings and specifications are the property of the Engineer however the Project is the property of the Owner, and the Engineer may not use the drawings and specifications thereof for any purpose not relating to the Project with the Owner's consent. The Owner shall be furnished with such reproductions of drawings and specifications as the Owner may reasonably require. Upon completion of the work or any earlier termination of this Agreement under Article 3.4 hereof, the Engineer will revise drawings to reflect changes made during construction and will promptly furnish the Owner with one complete set of reproducible record prints. Prints shall be furnished by the Engineer, as an additional service, at any other time requested by Owner. All such reproductions shall be the property of the Owner who may use them without the Engineer's permission for any proper purpose relating to the Project, including but not limited to additions to or completion of the Project. Any additions or revisions by the Owner to a drawing signed, sealed, and dated by a registered professional engineer, shall be made in accordance with the Texas Engineering practice Act and the Rules of the State Board of Registration for Professional Engineers.

All documents furnished to the Engineer by the Owner shall be delivered to the Owner upon completion or termination of this Agreement. The Engineer, at the

Engineer's own expense, may retain copies of such documents or any other data under this Agreement.

11.2 Release of Documents or Information. Release of information to the public or others regarding the Project will be accordance with the Texas Public Information Act.

ARTICLE 12 Discounts, Rebates, Refunds. In connection with procurement services rendered by the Engineer, if procurement services are required of the Engineer hereunder, all discounts, rebates and refunds shall accrue to the Owner. For some purchases, the Engineer may deem that payment within the discount period is not safe; and/or inspection, guarantees, or other considerations may dictate delay. In such cases, the Engineer shall promptly notify the Owner so that a course of action may be mutually agreed upon by the Owner and the Engineer.

ARTICLE 13. Records, Accounting, Inspection. The Engineer shall keep full and detailed records and accounts in a manner approved by the Owner. The Engineer shall afford the Owner's authorized personnel and independent auditors, if any, full access to the work performed by the Engineer regarding the Project and to all of the Engineer's books, records, correspondence, instructions, drawings, receipts, vouchers and other documents relating to such work under this Agreement and the Engineer shall preserve all such records for three (3) years after final payment. The Engineer shall deliver to the

Owner upon completion of such work, a statement of the cost of such work detailed according to the accounting procedure and requirements of the Owner.

ARTICLE 14. Subcontracting and Assignment. The Engineer shall not assign, subcontract or transfer the Engineer's interest in this Agreement without the prior written consent of the Owner. The Engineer shall bind every subconsultant by written subcontract to observe all the terms of this Agreement to the extent that they may be applicable to each subconsultant. No subcontract relieves the Engineer of any responsibilities under this Agreement.

The Engineer, and the Owner, do hereby bind themselves, their successors, executors, administrators and assigns to each other party of this Agreement and to the successors, executors, administrators, and assigns of such other party in respect to all covenants of this contract.

ARTICLE 15. Patents. The Engineer shall indemnify and save the Owner harmless from all liability for alleged or actual infringement of any patent resulting from the use of apparatus or equipment furnished or designed by the Engineer or from the use of any process designed by the Engineer or effected by said apparatus or equipment, and the Engineer shall indemnify and save the Owner harmless from and against all costs, legal fees, expenses and liabilities incurred in or about any claim of or action for such infringement: provided, however, that the Owner shall promptly transmit to the Engineer

all papers served on the **Owner** in any suit involving such claim of infringement, and provided further, that the **Owner** permits the **Engineer** to have entire charge and control of the defense of any such suit. If because of actual infringement the use of such apparatus, equipment, or process is enjoined, the **Engineer** shall refund the purchase price thereof in proportion to the length of service uncompleted, the life of such apparatus or equipment being assumed as five years. The **Engineer** hereby grants to the **Owner** a non-exclusive, royalty-free license under patents now or hereafter owned by the **Engineer** covering any machines, apparatus, processes, articles, or products included in the **Engineer's** work hereunder.

ARTICLE 16. Confidential Information, Inventions and Other Restrictions.

16.1 Confidential Information. The **Engineer** shall not use in any way, commercial or otherwise, except to the extent required by the proper performance of this Agreement; and shall hold in confidence and not disclose to any person, for any reason or at any time, any information relating to the secret processes, products, compositions, machinery, apparatus or trade secrets of the **Owner**, or any other confidential information given to the **Engineer** by any of the **Owner's** commissioners, elected officials, employees, or representatives or acquired by the **Engineer** during the term of or as a result of this Agreement. Any information not generally available to the public shall be considered secret and confidential for the foregoing purposes; provided, however, that any technical

information which was lawfully in the **Engineer's** possession prior to such disclosure to the **Engineer** by the **Owner** or which is or shall lawfully be published or become part of general knowledge from sources other than the **Engineer** or which otherwise shall lawfully become available to the **Engineer** from a source other than the **Owner**, shall not be subject to these provisions. All the foregoing stipulations shall apply to such information and work hereunder as well as to any information and ideas originated or developed by the **Engineer** in performing such work. Such information may, of course, be disclosed to the proper officials or employees of the **Owner** if necessary to perform the work hereunder. The **Engineer** shall, however, inform each of its employees who receive such information of these restrictions and the **Engineer** shall take all reasonable precautions and exert all reasonable efforts to assure conformance with such restrictions by all of its officers, employees, and agents, obtaining from them if necessary, agreements satisfactory to the **Owner**, effectuating the purposes of this Article.

16.2 **Inventions.** The **Engineer** shall communicate to the **Owner** at once, and require the **Engineer's** employees assigned to this **Project** to communicate to the **Owner** all inventions and improvements which any of the **Engineer's** employees, either alone or in conjunction with any of the **Owner's** employees may conceive, make or discover during the course of or as a result of work on this **Project** under this or any ensuing agreement with the **Owner** that relates to the processes, products, compositions,

machinery or plants of the **Owner**, or relating in any way to any of the operations in which the **Owner** may be obligated to pay to the **Engineer** as compensation for services rendered by the **Engineer** under contract with the **Owner**. The **Engineer** shall require its employees to execute patent applications and assignments thereof to the **Owner** or its nominees, and powers of attorney relating thereto for any country the **Owner** may designate, and shall take all other actions as the **Owner** may request to maintain and protect such inventions and improvements. The **Owner** shall pay all costs or charges incurred in protecting such inventions and improvements if the **Owner** desires to protect them. Before assigning any of the **Engineer's** employees to work under any contract with the **Owner** concerning this **Project**, the **Engineer** shall obtain from them agreements satisfactory to **Owner** complying in all respects with the terms and provisions of this Article.

16.3 The rights and obligations set forth in Article 16 shall survive the performance of this Agreement, or any termination, discharge or cancellation thereof

ARTICLE 17. Engineer's Seal, Responsibility and Warranties.

17.1 **Engineer's Seal.** The **Engineer** shall assign a responsible engineer or engineers licensed to practice in the State of Texas, who shall sign, seal and date all appropriate engineering submissions to the **Owner** in accordance with the Texas

Engineering Practice Act and the Rules of the State Board of Registration for Professional Engineers.

17.2 Engineer's Responsibility. The Engineer shall be responsible for the accuracy of the work for the Project and shall promptly make necessary revisions or corrections resulting from errors, omissions, or negligent acts by the Engineer. No additional compensation will be made to the Engineer for any necessary revisions or corrections resulting from errors, omissions, or negligent acts by the Engineer.

The Engineer's responsibility for all questions arising from design errors and/or omissions will be determined by the Owner or a designee appointed by the Owner. The Engineer will not be relieved of the responsibility for subsequent correction of any such errors or omissions or for clarification of any ambiguities until after the construction phase of the Project has been completed.

17.3 Warranties.

(a) The Engineer warrants that engineering design work performed by the Engineer hereunder shall be in accordance with sound engineering design practices and in conformance with applicable code and standards established for such work.

(b) Notwithstanding anything to the contrary contained in this Agreement, the Owner and the Engineer agree and acknowledge that the Owner is entering into this Agreement in reliance on the Engineer's experience and abilities with respect to

performing the **Engineer's** services hereunder. The **Engineer** accepts the relationship of trust and confidence established between it and the **Owner** by this Agreement. The **Engineer** covenants with the **Owner** to use the **Engineer's** best efforts, skill, judgement and abilities to design the **Project** and to further the interests of the **Owner** in accordance with the **Owner's** requirements and procedures, in accordance with all professional standards, and in compliance with all applicable national, federal, state, county and municipal laws, regulations, codes, ordinances, orders and with those of any other body having jurisdiction. If the development of plans, specifications and estimates (hereinafter referred to as "**PS&E**") are identified in this Agreement under Article 2 hereof or **EXHIBIT "B"**, attached hereto, as part of the services to be provided by the **Engineer** for the **Project**, prior to the commencement of construction, the **Engineer** shall certify in writing to the **Owner** that the **PS&E** for the **Project**, and the improvements when built in accordance therewith, conform to all applicable governmental regulations, statutes and ordinances then in effect. The **Engineer** represents covenants and agrees that there are no obligations, commitments or impediments of any kind that will limit or prevent performance of the **Engineer's** services.

(c) The **Engineer** represents, covenants and agrees that all of **Engineer's** services to be furnished by the **Engineer** under or pursuant to this Agreement from the inception of the Agreement until the **Project** has been fully completed, shall be of the

standard and quality which prevail among engineers of similar experience, knowledge, skill and ability engaged in engineering practice throughout Texas under the same or similar circumstances involving the design and construction of Project.

(d) The Engineer represents, covenants and agrees that the Engineer's special talent, training and experience cause the Engineer to be the prime professional on the Project; that because of such talent and training, the Engineer envisions the construction of the Project in its entirety and possesses the special skills which enable the Engineer to recognize dangerous conditions that a reasonable, prudent engineer having such special skills could anticipate may arise from the proper use of the Project after acceptance by Owner; and that the Engineer recognizes that any commissioners, elected officials, employees and agents of the Owner, plus residents and owners of property within the area affected by the Project are within a class of foreseeable persons who will be relying on the project being designed in a professional and safe manner.

(e) If the development of PS&E is identified in this Agreement under Article 2 hereof or EXHIBIT "B", attached hereto, as part of the services to be provided by the Engineer for the Project, the Engineer represents, covenants and agrees that the PS&E of the Project will be accurate and free from any material errors. The Engineer additionally represents, covenants and agrees to the following: that the design of the Project will conform to its foreseeable use as a Project with all the amenities as set forth in any PS&E

developed by the Engineer for the Project; that the result of such PS&E, if built in accordance therewith, will be suitable for purposes for which the Project is designed; and the Project will be inspected in a workmanlike, professional manner and will be suitable for the Project's intended purpose. The Engineer's responsibilities as set forth herein shall at no time be in any way diminished by reason of any approval by the Owner of any PS&E developed by the Engineer for the Project, nor shall the Engineer be released from any liability by reason of such approval by the Owner, it being understood that the Owner at all times is ultimately relying upon the Engineer's skill and knowledge in preparing such PS&E.

(f) In connection with the Engineer's performance of procurement services hereunder, if any, the Engineer use its best efforts to obtain from all vendors of equipment and materials, fullest possible warranties against defective materials and workmanship for the benefit of the Owner.

ARTICLE 18. Engineer's Resources. The Engineer shall furnish and maintain, at the Engineer's own expense, office space for the performance of all services, skilled and sufficient personnel, as well as adequate and sufficient equipment to perform the services as required under this Agreement.

18.1 Project Manager. The Engineer shall provide a manager (**Project Manager**) for the Project that is a registered professional engineer in the State of Texas. The

Project manager shall have such knowledge and experience as will enable that Project Manager during the course of the Project without prior consent of the Owner. If, due to situations beyond the control of the Engineer, the Engineer must change the Project Manager prior to the completion and acceptance of the Project, the Engineer will submit a request to change the Project Manager to the Owner for approval.

18.2 Employees of the Engineer. All employees of the Engineer shall have such knowledge and experience as will enable them to perform the duties assigned to them and required for the services under this Agreement. Any employee of the Engineer who, in the opinion of the Owner, is incompetent, or whose conduct becomes detrimental to the work required under this Agreement, shall immediately be removed from association with the Project when so instructed by the Owner. The Engineer certifies that the Engineer presently has employed sufficient and qualified personnel, and will maintain sufficient and qualified personnel for performance of the services under this Agreement.

18.3 Documents/Information Exchange The purpose of this Article is to define the required automated resources, format for graphics files, and information exchange pertaining to the Project. Taking into consideration that the Owner has a significant investment in the development of the Project, there is a need for the Engineer to provide consistency in document development for information exchange. Consistency in document development for information exchange and production will help facilitate an

economically efficient Project. Therefore, the Engineer shall provide the Owner with documents and information in accordance with the special requirement outlined in EXHIBIT "B" attached hereto.

ARTICLE 19. Indemnification. To the fullest extent permitted by applicable law, the Engineer and its agents, partners, subcontractors, and consultants (collectively "Indemnitors") shall and do agree to indemnify, and hold harmless the Owner, the Owner's respective directors, elected officials, employees and agents (collectively "Indemnitees") from and against all claims, damages, losses, liens, causes of action, suits, judgments and expenses, including attorney fees, of any nature, kind or description (collectively "Liabilities") of any person or entity whomsoever arising out of, caused by or resulting from the negligent performance of the Engineer's services through activities of the Engineer, its agents, partners, subcontractors and/or consultants performed under this Agreement, and which are caused by or result from error, omission, or negligent act of the Engineer or of any person employed or contracted by the Engineer provided that any such Liabilities (1) are attributable to bodily injury, personal injury, sickness, disease or death of any person, or to the injury to or destruction of tangible personal property including the loss of use and consequential damages resulting there from and (2) are caused in whole or in part by any negligent act or omission of the Engineer, anyone directly or indirectly employed by the Engineer or anyone for whose acts the Engineer

may be legally liable. The **Engineer** shall also save harmless the **Owner** from any and all expense, including but not limited to, attorney fees which may be incurred by the **Owner** in litigation or otherwise resisting said claim or liabilities which may be imposed on the **Owner** as a result of such activities by the **Engineer**, its agents partners, subcontractors and/or consultants. In this connection, it is agreed and understood that the **Engineer** shall not be responsible for any portion of the liability proximately caused by the **Owner's** negligence.

ARTICLE 20. Joint and Several Liability. In the event more than one of the **Indemnitors** are connected with an accident or occurrence covered by the indemnification in Article 19 hereof, then each of such **Indemnitors** shall be jointly and severally responsible to the **Indemnitees** for indemnification and the ultimate responsibility among such **Indemnitors** for the loss and expense of any such indemnification shall be settled by separate proceedings and without jeopardy to any **Indemnitee**. The provisions of this Article shall not be construed to eliminate or reduce any other indemnification or right which the **Owner** or any of the **Indemnitees** has by law.

ARTICLE 21. Insurance. The **Engineer** shall obtain and maintain insurance in the limits of liability for each of the types of insurance coverage identified as follows.

- (1) **Workers' Compensation**, endorsed with a waiver of subrogation in favor of the **Owner** in accordance with the statutory obligations

imposed by Worker's Compensation or Occupational Disease laws under the Texas Workers' Compensation Law ("Statutory Texas")

- (2) **Commercial General Liability**, endorsed with the Owner as an additional insured and endorsed with a waiver of subrogation in favor of the Owner *all to the extent of the liabilities assumed by the Engineer under Article 19 and Article 20* herein, in limits of liability not less than one million dollars (\$1,000,000) combined single limit each occurrence and in the aggregate for bodily injury and property damage.

- (3) **Texas Business Automobile Policy**, endorsed with the Owner as an additional insured and endorsed with a waiver of subrogation in favor of the Owner *all to the extent of the liabilities assumed by the Engineer under Article 19 and Article 20 herein*, in limits of liability not less than two hundred fifty thousand dollars (\$250,000) each person for bodily injury, five hundred thousand dollars (\$500,000) each occurrence for bodily injury, and one hundred thousand dollars (\$100,000) each occurrence for property damage.

- (4) **Professional Liability** in limits of \$1,000,000 each claim and aggregate.

The Engineer covenants and agrees to maintain an insurance policy in the minimum limits of liability for each of the types of insurance coverage identified above.

The Engineer shall furnish the Owner with a certificate of insurance (*Hidalgo County Certificate of Insurance*) showing the said policy to be in full force and effect during the period of service, identified in Article 3 hereto, for this Agreement. The completed Hidalgo County Certificate of Insurance shall be attached hereto and identified as EXHIBIT "G"- *Hidalgo County Certificate of Insurance*. The Engineer will be considered in breach of contract should the Engineer fail to maintain an insurance policy in the minimum limits of liability and requirements identified above while performing services for and under this Agreement, and will be subject to default and termination of the Agreement as outlined in Article 3.4 hereto. Additionally, the Engineer covenants and agrees to use its best efforts to maintain an insurance policy in the minimum limits of liability and requirements identified above until one year following the date of the acceptance of the Project by Owner.

ARTICLE 22. Compliance with Laws. The Engineer shall comply with all applicable Federal, State and local laws, statutes, codes, ordinances, rules and regulations and the orders and decrees of any court, or administrative bodies or tribunals in any manner affecting the performance of this Agreement including, without limitation, worker's compensation laws, minimum and maximum salary and wage statutes and regulations and licensing laws and regulations. When required the Engineer shall furnish the Owner with satisfactory proof of its compliance therewith.

ARTICLE 23. Non-collusion. The **Engineer** warrants that the **Engineer** has not employed or retained any company or persons, other than a bona fide employee working solely for the **Engineer**, to solicit or secure this Agreement, and that the **Engineer** has not paid or agreed to pay any company, engineer or any other person or entity any fee, commission, percentage, brokerage fee, gifts or any other consideration contingent upon or resulting from the award or execution of this Agreement. For breach or violation of this warranty the **Owner** shall have the right to annul this Agreement without liability or, in the **Owner's** discretion, to deduct from the *Services Fee*, or otherwise recover, the full amount of each fee, commission, percentage, brokerage fee, gift or contingent fee.

ARTICLE 24. Gratuities. The **Owner** mandates that employees of the **Owner** shall not accept any benefits, gifts or favors from any person doing business or who reasonably speaking may do business with the **Owner** under this Agreement; the only exceptions allowed are ordinary business meals. Any person doing business with or who may reasonably seeking to do business with the **Owner** under this Agreement may not make any offer of benefits, gifts or favors to **Owner** employees, except as mentioned herein above. Failure on the part of the **Engineer** to adhere to this provision may result in the termination of this Agreement.

ARTICLE 25. Payment of Franchise Tax. The **Engineer** hereby certifies that the **Engineer** is not delinquent in Texas franchise tax payments, or that the **Engineer** is

exempt from, or not subject to, such as tax. A false statement concerning corporation's franchise tax status shall constitute grounds for termination of the Agreement at the sole option of the **Owner**.

ARTICLE 26. Disputes. The **Engineer** shall be responsible for the settlement of all contractual and administrative issues arising out of any procurement made by the **Engineer** in support of the services under this Agreement.

ARTICLE 27. Severability. In the event any one or more of the provisions contained in this Agreement shall for any reason, be held to be invalid, illegal, or unenforceable in any respect such invalidity, illegality or unenforceability shall not affect any other provision thereof and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein .

ARTICLE 28. Notices. All notices to either party by the other required under this Agreement shall be personally delivered or mailed to such party at the following respective addresses:

**OWNER: Hidalgo County
Inc.
100 E. Cano, 2nd Floor
Edinburg, Texas 78539**

**ENGINEER: L & G Consulting Engineers
2100 West Expwy 83
Mercedes, Texas 78570**

The Address may be changed by either party by written notice and notice so mailed shall be effective upon mailing.

(f) The **Engineer** shall remain an independent contractor and shall have no power nor shall the **Engineer** represent that the **Engineer** has any power to bind the **Owner** or to assume or to create any obligation express or implied on behalf of the **Owner** except as specifically authorized in advance by the **Owner**.

(g) The Agreement shall be construed under the laws of the State of Texas and is performable in Hidalgo County, Texas.

(h) This Agreement may only be amended by a written document executed by the **Owner** and the **Engineer** as provided by Article 8 herein.

ARTICLE 30. Signatory Warranty The undersigned signatory or signatories for the **Engineer** hereby represent and warrant that the signatory is an officer of the organization for which he or she has executed this Agreement and that he or she has full and complete authority to enter into this Agreement on behalf of the **Engineer**. The above-stated representations and warranties are made for the purpose of inducing the **Owner** to enter into this Agreement.

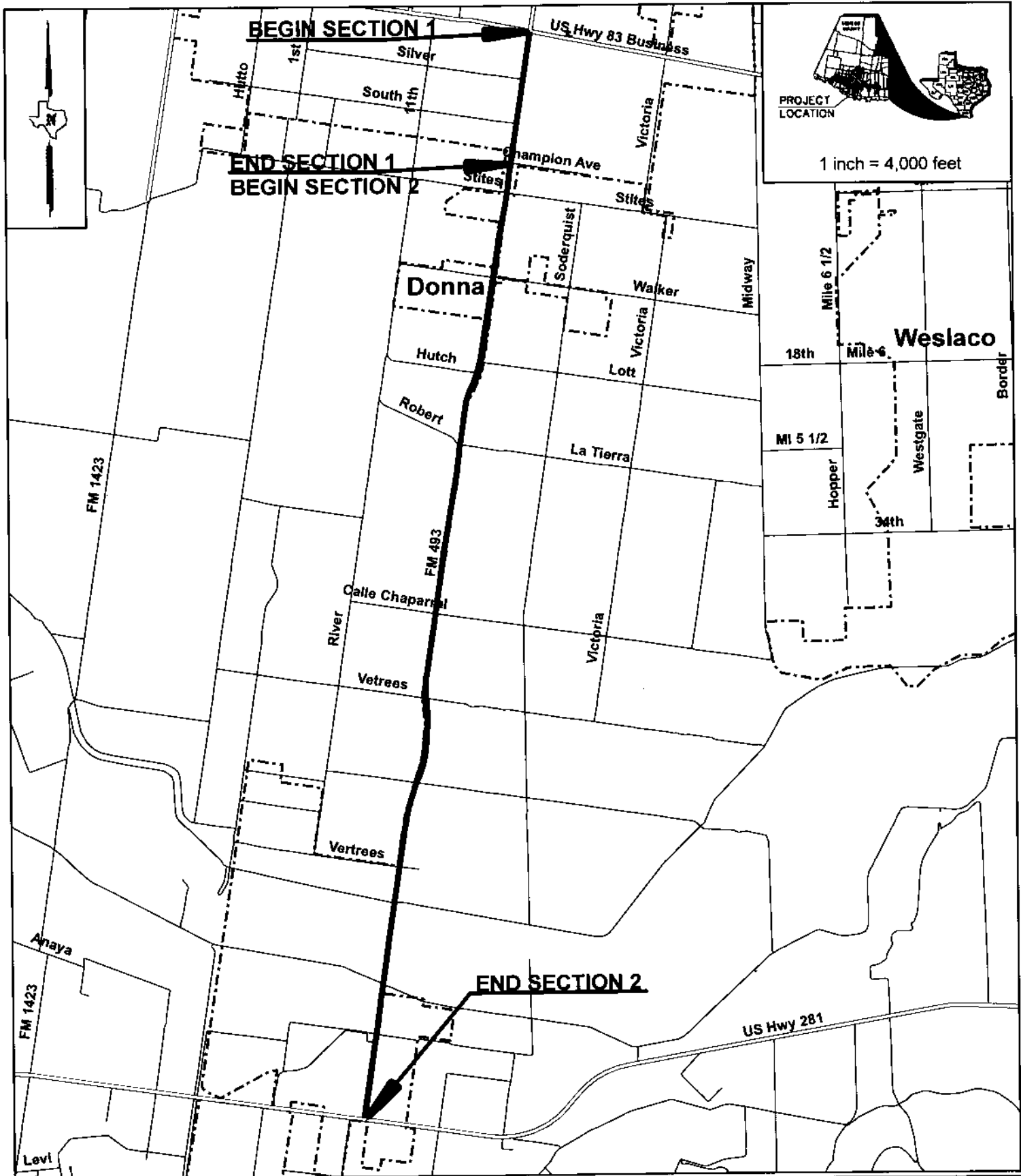
APPROVED AS TO FORM:

Atlas & Hall, L.L.P.

By:  _____

ATTACHMENTS:

- EXHIBIT A** -Scope of Services to be provided by the Owner
- EXHIBIT B** -Scope of Services to be provided by the Engineer
- EXHIBIT C** -Work Schedule
- EXHIBIT D** -Engineer's Rates
- EXHIBIT E** -Work Authorization Form
- EXHIBIT F** -Supplemental Agreement Form
- EXHIBIT G** -Certificate of Insurance (*Hidalgo County*)



1 inch = 4,000 feet

FM 493 SOUTH PROJECT LOCATION MAP

APPROX. LENGTH = 6.65 MILES



L & G Engineering

- Highway / Civil
- Structural / Bridge
- Environmental
- Construction Material Testing

2100 W. Expressway 83
Mercedes, TX. 78570
Phone : (956) 565-9813
Fax : (956) 565-9018

EXHIBIT "B"
SCOPE OF SERVICES
TO BE PROVIDED BY ENGINEER

EXHIBIT "B"

Services to be provided by the Engineer

PROJECT LIMITS:

- **FM 493: From US 281 (Military Highway), North 6.65 Miles, to Business 83**

GENERAL SCOPE OF WORK:

The work to be performed by the Engineer under this Contract shall consist of providing Engineering Services required for the preparation of Schematics, Preliminary ROW Ownership, Environmental Assessment, Public Involvement, Design Surveys and ROW Determination, Outfall Identification and Hydrologic Map, Utility coordination, PS&E Development and bidding documents. In addition, this contract will include ROW acquisition provider services and construction inspection and construction material testing. The Engineer will prepare bid packages as identified in the Work Authorization for the reconstruction of FM 493 from US 281 (Military Highway) North 6.65 Miles to Business 83 in two sections. Section 1 is from Bus 83 to Champion Street and Section 2 is from Champion Street to US 281. The proposed improvements are to overlay the Section 1 and reconstruct Section 2 from an existing 28' roadway to 40 foot rural roadway providing for two lanes and shoulders along with associated drainage, structures, and grading including Traffic Control, Signing & Striping, and Traffic Signal/Flashing Beacon Installations for the subject limits.

The work to be performed by the Engineer shall also include the review of the existing drainage patterns to determine if the proposed roadway can be designed utilizing the existing outfalls. The basis for this estimate is based on the premise that the existing outfalls located at the ROW line of FM 493 will be utilized. The Engineer will examine the proposed outfall locations and associated hydrologic and hydraulic conditions and determine the feasibility and practicality of using the existing outfalls or if new outfalls are needed. **This scope does not include designing outfalls outside of the existing ROW for FM 493.** In addition, the scope includes coordinating the utilities along the project limits in preparation for construction.

The **Engineer** will furnish all equipment, materials, supplies, and incidentals as needed to perform the services required by this contract, except as otherwise specified in Exhibit A, "Services to be Provided by the County".

GENERAL SCOPE OF WORK:

The Scope of Work for this Work Authorization will be identified as follows:

- **FC110 ~ Design Schematic Development**
- **FC120 ~ Social, Economic, and Environmental Studies, and Public Involvement**
- **FC130 ~ Existing Right-of-Way Determination**
- **FC150 ~ Design Surveys**
- **FC160 ~ Roadway Design**
- **FC161 ~ Hydrologic/Hydraulic Study**
- **FC162 ~ Signing, Pav't Marking, Signals**

- *FC163 ~ Irrigation Str., Estimate, Specs, Gen Notes, Misc*
- *FC164 ~ Contract Management*
- *FC 320 – Construction Inspection and Construction Material Testing*
- *FC 600 – ROW Acquisition Services*

FC 110 ~ DESIGN SCHEMATIC DEVELOPMENT

After the existing centerline alignment is recovered and the proposed centerline is approved by TxDOT, the Engineer will develop a design schematic for submittal to TxDOT's Design Division.

Design Criteria

- The Engineer will prepare a Design Summary Report (DSR) to document the design criteria for the project and submit it to TxDOT for further processing.
- A Design Concept Conference (DCC) will be held to discuss and review the design criteria. The Engineer will prepare a Meeting Summary Report which will describe in detail the decisions made at the DCC and distribute it to everyone in attendance.
- The Engineer will prepare a preliminary construction cost estimate based on the results of the DCC and submit it to TxDOT.

Design Schematic

- The Engineer will develop a preliminary design schematic, based on the alignment previously selected, and submit to TxDOT for review.
- The Engineer will revise the schematic to incorporate TxDOT's comments and provide to TxDOT.
- A public meeting for this project will be scheduled. The Engineer will attend and will provide TxDOT with technical support.
- The Engineer will meet with TxDOT after the meeting to discuss modifications, if any, to the design schematic. The Engineer will incorporate the changes agreed upon, into the schematic and submit the revised schematic to TxDOT for further submittal to the Design Division and/or FHWA.
- After receiving approval of the design schematic from TxDOT, the Engineer will proceed with finalizing the design and complete the PS&E.
- The Schematic details will be completed to the Districts identified checklist.

Drainage

- The Engineer will evaluate the adequacy of the existing outfalls and develop a Hydrologic Map for the project identifying if any outfalls are needed for the project. The Engineer will coordinate with the Hidalgo County Drainage District No. 1, the Irrigation Districts, and cities in the area.

Irrigation Structures

- The Engineer will define the horizontal layout of the irrigation system in place and draw on the schematic the basis for maintaining the irrigation system whole.

FC 120 ~ ENVIRONMENTAL STUDIES, AND PUBLIC INVOLVEMENT

The Engineer will conduct the necessary research and field investigations to prepare an

Environmental Assessment document to obtain a Finding of No Significant Impacts (FONSI) clearance for the project.

Task I. Document Purpose and Need for the Project: This section will include text and graphics illustrating the description, purpose and need, objectives of the project and the existing and proposed project design. This section will also provide a description of the issues eliminated from further study.

Task II. Alternatives: This section will include text and graphics illustrating the different alternatives considered prior to selecting the preferred. It will also describe the reasonable alternatives and those eliminated from further study.

Task III. Affected Environment and Environmental Consequences: For each of the following categories the necessary background and field reconnaissance will be performed to gather data necessary for the completion of the EA. This will assist in determining which issues should be eliminated from further study or studied in detail.

Land Use and Socio-economic Impacts: Pertinent social and economic issues will be addressed in the EA; a separate report will not be prepared. At this time, it is unknown if relocations will occur; however, the EA will address any relocations anticipated. No other impacts to land use, land planning or socio-economic issues are anticipated. A Section 4(f)/6(f) will not be prepared.

Ecological Resources: A characterization of the project's ecological resources, including wetlands, vegetation, prime farmland and wildlife habitat characteristics will be performed. Ecologically sensitive resources including protected species, if any, will be identified in order to assess potential effects of project construction and operation. Any presence or absence surveys for endangered species will not be conducted. The project will be assessed for compliance with the Nationwide Permit Program; however, a permit is not anticipated. Any permitting required will be conducted by TxDOT.

Hazardous Materials: A field screening and an internet data search for potential hazardous materials sites will be conducted. A Phase I Environmental Site Assessment for hazardous materials will not be conducted.

Noise and Air Quality: A noise analysis and air quality impacts will be assessed under this scope.

Field Investigations: Field visits to identify potential environmental constraints involving land use, ecological resources and potential hazardous material sites will be conducted.

Graphics: Report graphics will be prepared for the EA as needed to show the project location, typical sections and project area photographs. In addition, the project layouts/photographs will show those resources that are necessary to convey the project's impacts to the reviewers.

Public Involvement – A discussion will be provided regarding any public involvement which occurs on the project.

Report Preparation and Submittal – The Engineer will prepare an environmental document (EA) that complies with applicable procedures of the National Environmental Policy Act (EPA) and Federal Highway Administration Technical Advisory 6640.8A. The analysis will address the

adverse and beneficial impacts of project construction and operation. Mitigation options will be emphasized where adverse impacts may potentially occur.

The Engineer will submit one draft copy of the report for review by the TxDOT Pharr District. Color photographs and exhibits will be included in both the draft and final reports. All review comment responses will be provided in writing and a meeting will not be required to discuss review comments. The draft report will be revised to incorporate District's comments. Thirteen (13) sets of the revised report will be submitted for review by ENV. After ENV reviews the report, the document will be revised and eight (8) sets of the report will be submitted. Because this project would obtain a Categorical Exclusion, no other revisions will need to be made. Upon receiving a Categorical Exclusion, a CD which includes the document and exhibits will be provided to the District for their files.

Coordination – L&G will coordinate with the SWCA to conduct all Cultural Resource Surveys and reports. TxDOT will coordinate with the appropriate resource agencies to obtain environment clearance for completion of project.

Assumptions used to derive to proposed fee estimate and scope of services:

- The Engineer will conduct field investigations in two field trips.
- The Engineer will attend the DCC and one meeting.
- All investigations will be conducted based on existing literature, field reconnaissance and aerial photographic interpretation.
- The draft EA will be submitted to TxDOT in 30 days after the public meeting and/or receipt of data needed.

FC 120 ~ ENVIRONMENTAL STUDIES, AND PUBLIC INVOLVEMENT

SWCA will conduct and prepare all Cultural Resource surveys and reports as required by TxDOT.

FC 130 ~ PRELIMINARY ROW DETERMINATION

FM 493 From Champion Street to US 281

General

1. The **Surveyor** will recover and or re-establish the existing Right-of-Way for the subject project.
2. The **Surveyor** shall monument the recovered ROW at all at all PCs, PTs, angle points, intersecting right-of-way lines of side streets, and 1000-foot stations after coordinating with the L&G Engineer. The **Surveyor** shall also monument all ROW corners.
3. The **Surveyor will submit a separate existing R.O.W. layout drawing (at scale of 1 inch = 100 feet), delineating the existing points recovered and all R.O.W. monuments that will be set before setting any points on the ground.** This map shall be utilized by L&G to attach it to the requests for the utility companies to adjust their lines prior to construction.

- a. This map shall also contain the proposed centerline as set on the ground – **again do not set a centerline for construction until L&G Engineers have approved.**
- b. Existing right-of-way lines will be delineated with appropriate bearings, distances, and curve data. The proposed centerline alignment will be delineated with appropriate bearings, distances, curve data and stationing. The existing ROW layout sheets stationing will be based on the proposed alignment. A north arrow will be shown on each sheet and, if possible, in the upper right hand corner.
- c. Monumentation set or found will be shown and described as to material and size.
- d. A station and offset based on the proposed alignment will be shown for all points set and/or recovered.
- e. Intersecting streets will be shown and identified by name and right-of-way width.
- f. Railroads will be shown and identified by name and right-of-way width.
- g. A note will be included on each sheet stating the basis of bearings, coordinates, and datum used.
- h. All existing right-of-way layout sheets shall be 11" x 17". The borders around these map sheets should ½" from the right side of the map, the top and the bottom. The border on the left side is 2". Scale of 1"=100'.

FC 150 – DESIGN SURVEYING

FM 493 From Champion Street to US 281

A. Design Survey

1. **The Limit of the Design survey shall be 1000-ft before and after the limits of the project. Set horizontal and vertical control for FM 493 from Bus 83 to US 281. The Basis for the H & V Control shall be the control previously established on US 281. Set benchmarks at max 1000-ft intervals. The BM's shall be #5 I.R. 2-ft in depth set in concrete. An H&V Book will be provided to the Engineer with 3-pt reference ties.**
2. Field Topographic Survey - Verify accuracy of existing topographic information by checking coordinates of Horizontal control points and elevations of benchmarks previously established by TxDOT.
3. Update existing planimetric data with current information of any improvements and apparent changes in the topography since the original planimetric data was obtained as well as field tie all existing drainage structures, driveways, and pavement edges as well as all existing roadway centerline and roadside drainage ditch profiles.
4. Fill all existing planimetric mapping void areas along FM 493, data processing and CADD mapping (2d and 3d) update, (4.7 Miles including additional limits).
5. Field locate cross culverts, driveway culverts, inverts, irrigation lines, within the project limits, data processing and CADD mapping (2d and 3d) update.
6. Right of Entry, Right of Way Research, and Appraisal District Records is the responsibility of the surveyor.
- 6a. The surveyor shall recover and reestablish the existing centerline then coordinate with the Engineer to establish the existing centerline stationing based on the old stationing of the previous plans south of Mile 10.

7. Stake proposed centerline/baseline at 1000-foot stations, PC's and PT's as directed by Engineer. (No. 5 I.R. 2-ft long).—FOR CONSTRUCTION but not until the Engineer directs the surveyor to do so.
8. The Surveyor shall also paint the proposed centerline on the proposed pavement. (500-ft stations and a tick mark at 100-ft stations ---12 inches long with approved paint by Engineer) before construction for the purpose of utility adjustments and project location.
9. Extend topographic survey 500 feet to each side of the existing Right-of-Way on all the intersecting streets for the limit of the project except at the existing drain ditches, the survey shall be extended 500-ft east and west from the existing FM 493 ROW and the x-sections shall be 50-ft Lt and Rt from the ditch centerline plus tying in all topo.

B. Utilities

1. Coordinate with engineer to have all existing underground utilities marked by utility companies along FM 493 and intersecting streets. Field tie the marked locations and process the information to include in the planimetric CADD mapping files. Utility lines shall be properly labeled and placed in separate levels in accordance with TxDOT requirements.
2. Collect vertical information of all exposed (by utility companies) utilities that have been identified as possible conflicts by the Engineer and process as above.

C. Miscellaneous

1. Provide the engineer with a copy of all field books developed during this project. The field books shall supplement the graphical information submitted by the surveyor. Accurate sketches of the existing conditions of all irrigation and drainage structures that were tied down by the surveyor shall be included in the field books.
2. A horizontal and vertical control book shall be submitted to the engineer. This control book shall include the reference sketches to the BM's and Horizontal Control Points as well as describe the basis of the datum's used.

FC 160 – DESIGN

PS&E for the above work shall be prepared in accordance with the applicable requirements of TxDOT Specifications, Standards, and manuals (updated for revisions). Whenever possible, the Department's standard drawings, standard specifications, or previously approved special provisions and/or special specifications will be used. If a special provision and/or special specification must be developed for this project, it shall be in the Departmental format and, to the extent possible, incorporate references to approved Department test procedures.

The Engineer shall furnish three (3) final cross-section plots showing both the original terrain (modified) and the design cross-sections, showing the roadway template. The design cross-sections shall indicate the slope rate on the side slopes.

FC 161 – DRAINAGE

The Engineer will perform a Geopak Drainage generated drainage analysis for all drain systems which will also include contributing runoff from the Adjacent Properties. This drainage analysis will be prepared prior to detailed design of drainage structures and will contain drainage area map(s), hydraulic calculations and Thysys and/or HEC-RAS analysis for TxDOT to approve.

FC 161 - STORM WATER POLLUTION PREVENTION PLAN (SW3P)

The **ENGINEER** shall complete the plans adequately addressing a storm water pollution prevention plan for the entire project during all phases of construction. SW3P layouts shall be developed on the TCP plan sheets. SW3P plans shall **generally** include the following drawings:

- **Summary Sheet on TCP's**
- **Details & Standards**

The Engineer shall develop a project specific Storm Water Pollution Prevention Plan (SW3P) to comply with the Federal Regulations (40 CFR part 122) published in the Federal Register on Sept. 9, 1992.

FC 162 - SIGNAL DESIGN

Project Understanding

The Engineer will produce a complete set of Plans, Specifications and Estimates (PS&E) that cover the installation of permanent signals along FM 493 after and if warrants are met.

TASK 1 – General Notes for Traffic Signal installation

The Engineer will setup the General Notes sheet(s) and prepare the general notes for the traffic signal design, as well as the signing, pavement marking and wheelchair ramp design at the above intersections.

TASK 2 – Estimate and Quantities

THE ENGINEER will prepare Basis of Estimate sheets with adequate number of columns to reflect the number of the above intersections and one column for the total quantities.

THE ENGINEER will calculate quantities and prepare cost estimates at 60%, 90% and 100% levels of completion.

TASK 3 – Condition Diagram

THE ENGINEER will setup the condition diagram sheets that would show the existing configuration of each intersection and other elements as required by TxDOT.

TASK 4 – Proposed Signal Plan Layout

THE ENGINEER will setup proposed signal layout sheets that would show the proposed geometry of the above intersections along with the basic elements of the signal design, such as location of signal poles, pedestrian poles, wheel chair ramps, cross walks and service pole locations.

THE ENGINEER will contact the local power company for electrical service requirements at each of the above interceptions.

THE ENGINEER will produce submittals for TxDOT's review at the 60%, 90% and 100% completion levels.

TASK 5 – Signal Phasing and Timing

Based on traffic counts furnished by TxDOT, the Engineer will develop optimal phasing and timing charts for each of the AM peak, PM peak and Off-peak time periods, using appropriate software. The charts will be presented to TxDOT for review and approval before their incorporation into the plan sheets.

TASK 6 – Standard Sheets List

The Engineer will prepare a list of standard sheets for the 60%, 90% and 100% submittals. The Engineer will also prepare the drill shaft tables on the TSFD standard sheet as well as the shipping parts list on the SP/SMA standard sheet.

TASK 7 – Specifications List and Cost Estimate

The Engineer will prepare a list with all pertinent specifications and special provisions as they relate to the above tasks. The Engineer will also prepare cost estimates at the 60%, 90% and 100% submittals.

TASK 8 – Electrical Schedules

The Engineer will prepare tables, depicting the electrical schedule for each signalized intersection. The electrical schedules will be shown on the same sheets with the loop detector schedules and phasing/timing tables.

TASK 9 – Field Investigation and Meetings

The Engineer will conduct field investigations at the above intersection locations and record pertinent signal design information as well as identify potential design issues.

The Engineer will participate in one project progress meeting with L&G/TxDOT.

TASK 10 – Other services

The Engineer will provide tables with electrical service data for each of the services poles required at the above intersections.

Other services not covered in the above scope will be negotiated separately.

FC 162 – PAVEMENT MARKING AND MARKER LAYOUTS

TASK 1 – Plan Layouts (1"=100')

L&G will produce a complete set of Plans, Specifications and Estimates (PS&E) that cover the pavement marking and markers along FM 493 and all cross street approaches for the length

shown in the plan and profile layouts. Work will include design of ADA compliant wheelchair ramps that line up with the proposed crosswalks and any signal pole locations.

TASK 2 – Estimate and Quantities

The Engineer will prepare a summary of pavement marking and marker quantities (Basis of Estimate sheet) with adequate number of columns to reflect the types of markings to be installed by each payout sheet and one column for the total quantities.

The Engineer will calculate quantities at 60%, 90% and 100% levels of completion.

TASK 3 – Standard Sheets List

The Engineer will calculate quantities at 60%, 90% and 100% levels of completion.

TASK 4 – Specifications List and Cost Estimate

The Engineer will prepare a list with all pertinent specifications and special provisions as they relate to the above tasks. The Engineer will also prepare cost estimates at the 60%, 90% and 100% submittals.

FC 162 – SIGNING AND DELINEATION LAYOUTS

TASK 1 – Plan Layouts (1"=100')

L&G will produce a complete set of Plans, Specifications and Estimates (PS&E) that cover the signing and delineation along FM 493 and all cross street approaches for the length shown in the plan and profile layouts. The work will include design of flashing beacons near the School. The plans will show the following:

- Existing signs to remain in place
- Existing signs to be removed
- Proposed new signs
- Proposed new delineators and object markers.

L&G will prepare signing and delineation plans for all major cross streets.

TASK 2 – Summary of Small Signs

L&G will prepare a summary of small signs sheets along with a descriptive codes sheet. (Basis of Estimate sheet).

L&G will calculate quantities at 60%, 90% and 100% levels of completion.

TASK 3 – Standard Sheets List

L&G will calculate quantities at 60%, 90% and 100% levels of completion.

TASK 4 – Specifications List and Cost Estimate

L&G will prepare a list with all pertinent specifications and special provisions as they relate to the above tasks. L&G will also prepare cost estimates at the 60%, 90% and 100% submittals.

FC 163 - IRRIGATION SIPHONS AND CANALS

The ENGINEER shall coordinate with the Irrigation District(s) and prepare all necessary drawings needed for maintaining the functionality of irrigation districts irrigation lines.

FC 163: TRAFFIC CONTROL

The Engineer shall determine the project construction sequence and design a traffic control plan based upon the Texas MUTCD and the latest district traffic control design requirements. This shall include field investigations into such items as any Drainage Structures, utilities, R.O.W. restrictions, adjacent properties and cross street access, and other items which may ultimately affect the safe handling of traffic during the construction sequence.

The engineer shall meet with the Pharr District personnel early in the project design as soon as a construction sequence is developed. The construction sequence shall be updated periodically as the design progresses.

The engineer shall prepare drawings for each phase, based upon the agreed sequence of construction. The drawings shall indicate traffic lanes versus work zones per phase, including all required detours. Consideration shall be given to the use of temporary traffic control signals and, if needed, how to utilize and coordinate with the various phases. The drawings will be used by the District to obtain final concept approval of the TCP from the District Traffic Control Review Committee. Based on the results of the safety review team meeting, the detailed Traffic Control PS&E will be completed.

FC 163: UTILITIES

The Engineer shall coordinate the utilities as follows: (L&G will conduct two utility meetings with the owners at the County or at L&G's office in coordination with TxDOT)

- A. Determine the ownership of the existing utilities on the subject project.
- B. Contact the utility owners and locate (horizontally and vertically) existing utilities on the ground.
- C. Evaluate utility conflicts with proposed construction. Prepare and submit drawings to the County, Utility Companies and copies to TxDOT, for required utility adjustment. The following information will be submitted for each required utility adjustment.
 1. A reproducible drawing 8-1/2" x 11", 11" x 17", or 22" x 34" (as appropriate) for each utility adjustment
 2. Drawing will include the following:
 - a) Existing and/or proposed R.O.W lines.
 - b) Existing and/or proposed roadways.
 - c) Proposed drainage structure

- d) Existing underground utility in plan and profile.
 - e) Owner of utility.
 - f) Benchmark
3. Provide copies to TxDOT of correspondence with utility companies and cities. If initial contact was made by phone, provide name of company and representative's name and telephone number.
 4. Prepare a detailed list to TxDOT of all conflicts with existing utilities during the drainage structure design phase. List must include the following:
 - a) Highway station number.
 - b) Name of utility company and type of facility.
 - c) Proposed highway facility - the conflict with: storm sewer, roadway, drainage ditch, drill shaft, etc.
 4. The Engineer shall be responsible for notifying all utility owners, early in the design phase, regarding any utility adjustments.
 5. Utility agreements to be developed by consultant, sent by consultant to companies and coordinate with them.

FC 163: BIDDING DOCUMENTS

- 1) The Engineer will furnish to the Owner the necessary copies of approved plans, specifications, notices to bidders, and proposals as prepared under PS&E.
- 2) The Engineer will assist Owner the tabulation of bids, recommendations to the Owner as to the proper action on all bid proposals received, and the preparation of formal contract documents for the award of each construction contract.

FC 164 – CONTRACT MANAGEMENT

The Engineer will be required to meet with designated TxDOT representatives on a regularly scheduled basis to report on progress. A typewritten progress report will be required, together with evidence of the work accomplished during the period since the previous report. A bar chart indicating the percentage of completion of each task shown on Attachment "C" will also be required. Formal progress reports with bar charts will be required on a monthly basis.

The Engineer will establish a separate cost accounting system for each control-section-job (C-S-J) number to properly allocate all labor and expenses incurred. The Engineer shall invoice monthly according to Function Code breakdowns.

FC 320– CONSTRUCTION INSPECTION & CONSTRUCTION MATERIAL TESTING

The Engineer will provide engineering and support services for and during the construction of the Project or portions of the Project approved by the Owner. Specific (basic and special) services for CONSTRUCTION MANAGEMENT AND SUPPORT by the Engineer will include the following:

- 1) In general, the Engineer will provide the management and engineering support/data required for consultation and advisement to the Owner and act as the Owners representative as provided in the General Condition of the Construction Contract.
- 2) The Engineer will coordinate and conduct a pre-construction conference.
- 3) Defects and Deficiencies. The Engineer will use his best efforts to protect the Owner against defects and deficiencies in the work of the Contractor. The Engineer will promptly notify the Owner of any such defect or deficiency, and take all steps possible to require the Contractor to correct the defect or deficiency.
- 4) Contractor Payment. The Engineer will have a day to day inspector and the Engineer will review quantities as submitted by the Contractor and in coordination with the County's field inspector for the preparation of the monthly and final estimates for payment to the Contractor.
- 5) The Engineer will provide Project site inspection of the authorized construction contract(s) as follows:
 - a) Project Engineer. The Engineer will provide visits by the Project Engineer or a competent representative of the Engineer to the site of construction for the purpose of monitoring the Contractor's progress and conformance to the construction contract plans and specifications.
 - b) Resident Engineer and/or Construction Inspector(s). The Engineer will furnish the services of a Resident Engineer and/or Construction Inspector(s) for on the site inspection construction to monitor/inspect the Contractor's daily progress and conformance to PS&E specifications.
- 6) Shop Drawings. The Engineer will review and check all shop or working drawings furnished by the Contractor.
- 7) Control of Materials & Equipment. The Engineer will provide inspection of all materials and equipment furnished/used by the Contractor as follows:
 - a) Review and record all laboratory, shop and mill tests of materials and equipment for compliance with the construction contract specifications.
 - b) Observe and/or perform Project record testing and/or independent assurance testing as outlined in the construction contract specifications.
- 8) Change Orders. When applicable the Engineer will prepare the engineering data, including plan sheet drawings, specifications, and estimates, for the preparation of construction contract change orders, which may be required due to actual field conditions encountered or new requirements directed by the Owner.
- 9) As Built Drawings. The Engineer will develop as built drawings to depict the work as actually constructed. The Owner will be furnished five (5) set of prints.

FC 600- RIGHT-OF-WAY ACQUISITION PROVIDER SERVICES

1) Project Administration

- a) Negotiation of Scope of Services for Work Authorization
 - i) Acquisition Provider will visit project site with County personnel if necessary.
- b) Project Presence at L&G Consultant Office Headquarters
 - i) Full Project Office

- (1) No Joint Use of County or TxDOT facilities
 - (2) Open during normal County and State work hours
 - (3) Personnel available to answer questions
 - (4) Availability of Project Files
 - (5) At least one office staff member is required to be a current commissioned notary public.
- c) Overhead Costs
- i) Administrative costs
- d) Communication
- i) Provide monthly progress reports with invoice.
 - ii) Participate in project review meetings as determined by the County.
 - iii) Prepare initial property owner contact list for use by the County in distribution of Acquisition Provider introduction letters.
- e) File Management
- i) Project and parcel files will be kept in the County's Office, if necessary. Working files will be kept in the Acquisition Provider's project administrative office, but documents generated or received by the Acquisition Provider will be forwarded to the County office as they are generated or received by the Acquisition Provider, if necessary.
 - ii) Prepare payment transmittal request utilizing standard payment submissions forms with supporting documentation.
 - iii) Maintain records of all payments including check number, amount, and date paid, etc.
 - iv) Provide copies of all incoming and outgoing correspondence as generated if requested by County at provider conference.
 - v) Maintain copies of all correspondence and contacts with property owners.

2) Title Services

- a) Secure preliminary title commitments from the Title Company that will be providing title insurance. Cost of preliminary title commitments will be paid by the Acquisition Provider (if requested by the title company) and will be included in the Acquisition Provider's scope of work for payment.
- b) Secure title commitments updates in accord with insurance rules and requirements for parcel payment submissions. Cost of title commitment updates will be paid by the Acquisition Provider (if requested by the title company) and will be included in the Acquisition Provider's scope of work.
- c) Secure title insurance for all parcels acquired, insuring acceptable title to County of Hidalgo. Written approval by the County required for any exception.

3) Appraisal

- a) Appraiser may be selected from TxDOT's list of state approved fee appraisers. This list will be available for review at all District offices or at the Right of Way Division Office at 118 E. Riverside Drive, Austin, Texas, upon request.
- b) Secure written permission (if necessary) from the owner to enter the property from which land is to be acquired. If the Acquisition Provider, after diligent effort, is unable to secure the necessary letter of permission from the property owner, a waiver must be obtained, in writing from the County/TxDOT. Maintain permission letters with appraisal reports.
- c) Prepare (if necessary) pre-appraisal contact with interest owner(s) for each parcel using acceptable County/TxDOT forms.
- d) Contact property owners or their designated representative to offer opportunity to accompany the appraiser on the appraiser's inspection of subject property. Maintain record of contact in file.
- e) Prepare complete appraisal report for each parcel to be acquired utilizing TxDOT Forms No. ROW-A-5 and ROW-A-6 as applicable. These reports shall conform to County policies and procedures along with the Uniform Standards of Professional Appraisal Practices.
- f) As necessary, prepare written notification to County/TxDOT of any environmental concerns associated with the right of way to be acquired which could require environmental remediation.
- g) All completed appraisals will be administratively reviewed by L&G Engineering ROW Office and recommended for approval by the County of Hidalgo.
- h) As necessary, the appraiser will appear and or testify as an Expert Witness in eminent domain proceedings and be available for pre-hearing or pre-trial meetings as directed by L&G Engineering and/or the County.
- i) As necessary, the appraiser will coordinate with review appraiser regarding revisions, comments, or additional information that may be required.
- j) The cost of the appraiser appearing as an expert witness for testimony at special commissioners hearing must be included in the proposed fee schedule for the appraiser. The cost of the appraiser's expert witness testimony for trial is not part of this contract, and shall be paid by the County.

4) Appraisal Review

- a) Review Appraiser may be selected from TxDOT's list of state approved fee appraisers. This list is available for viewing at all District offices or the Right of Way Division office at 118 E. Riverside Drive, Austin, Texas upon request.
- b) Review all appraisal reports for each parcel to determine consistency of values, supporting documentation related to the conclusion reached and compliance with TxDOT/County policies and procedures and the Uniform Standards of Professional Appraisal Practices.

- c) Prepare and submit to County the Form ROW-RTA-10 "Tabulation of Values", for each appraisal.
- d) The cost of the review appraiser appearing as an expert witness for testimony at special commissioners hearing must be included in the proposed fee schedule for the review appraiser. The cost of the appraiser's expert witness testimony for trial is not part of this contract, and shall be paid by the County.

5) Appraisal Updates

- a) Prepare complete appraisal update for the parcel to be acquired utilizing TxDOT Form No. ROW-A-5, which will be furnished to the provider by TxDOT. These reports shall conform to County/TxDOT policies and procedures along with the Uniform Standards of Professional Appraisal Practices.
- b) As necessary, prepare written notification to County/TxDOT of any environmental concerns associated with the right of way to be acquired which could require environmental remediation. All completed appraisals will be administratively reviewed by L&G Engineering Right of Way Office and recommended for approval by the County of Mission.
- c) As necessary, the appraiser will appear or testify as an Expert Witness in eminent domain proceedings and be available for pre-hearing or pre-trial meetings as directed by the County.
- d) The cost of the appraiser appearing as an expert witness for testimony at special commissioners hearing must be included in the proposed fee schedule for the appraiser. The cost of the appraiser's expert witness testimony for trial is not part of this contract, and shall be paid by the County.
- e) As necessary, the appraiser will coordinate with the review appraiser regarding corrections and/or additional information that may be required.

6) Negotiation, Tasks, and Fees

- a) Analyze appraisal and appraisal review reports and confirm the County's approved value prior to making offer for each parcel.
- b) Analyze preliminary title report to determine potential title problems, propose methods to cure title deficiencies.
- c) Prepare the initial offer letter, instruments of conveyance, and any other documents required or requested by County/TxDOT on applicable County/TxDOT forms.
- d) Contact each property owner or owner's designated representative, to present the written offer in person where practical, and deliver appraisal report and required brochures. Maintain follow-up contacts and secure the necessary instruments upon acceptance of the offer for the closing.

- e) Provide a copy of the appraisal report for the subject property exclusively to the property owner or authorized representative at the time of the offer. Maintain original signed Receipt of Appraisal, (unless property owner refuses to sign it, it will be so noted) for billing purposes.
- f) Respond to property owner inquiries verbally and in writing within two business days.
- g) Prepare a separate negotiator contact report for each parcel per contact.
- h) Maintain parcel files of original documentation related to the purchase of the real property or property interests.
- i) Advise property owner on the Administrative Settlement process. Transmit to County any written counter offer from property owners including supporting documentation, and provider recommendation with regard to Administrative Settlements in accordance with County/TxDOT policy and procedures.
- j) Prepare final offer letter, documents of conveyance as necessary.
- k) Appear and provide Expert Witness testimony as an Acquisition Provider when requested.
- l) Meet at the L&G Engineering ROW office in Mission once per week as agreed-upon with the Right of Way Acquisition Manager/Administrator.
- m) Provide a monthly progress report per parcel by the 25th of the month with invoice.
- n) The consultant shall, as part of this proposal, estimate 10% of the 55 parcels may end up in condemnation. The consultant shall be available for any meeting/hearings as requested by the County Attorney.

7) Closing Service Fees

- a) Coordinate with County and Title Company to obtain an updated title commitment along with other Forms and certified copy of the instrument of conveyance necessary when requesting the Parcel Payment from the County.
- b) Acquisition Provider shall attend closings and provide closing services in conjunction with Title Company.
- c) Acquisition Provider shall record all original instruments immediately after closing at the respective County Clerk's Office, except for donations which must be forwarded to County for acceptance by the County Commissioners.

8) Relocation Assistance Services

a. Residential & Business

- i. There are no anticipated relocations or displacements for this contract.

9) Condemnation Support

- a) Pre-Hearing Support
 - i) Upon receipt of a copy of the final offer, request an updated title commitment for Eminent Domain from the Title Company.
 - ii) Prepare a Bisection Clause for the original set of Legal Descriptions supplied by Surveyor if applicable
 - iii) Use the information from the Title Commitment to join all interested parties on the necessary forms. Spouses of owners must also be joined.
 - iv) Upon completion of the necessary forms, prepare a packet containing 2 copies each of the following documents: Title Commitment, Negotiator's Reports, Appraisal Acknowledgment, Preappraisal Contact Sheet, signed and sealed property description, and plat, Final Offer Letter, any correspondence from the land owner or representatives, along with one copy of the appraisal report. Submit packet to the County Office for submission to the County Attorney's office.
 - v) Upon receipt of concurrence for the Appraisal Witness, request the update of appraisal.
 - vi) Upon receipt of packet prepared by the County Attorney which will include Petition for Condemnation, Lis Pendens, Order Appointing Special Commissioners, Order Setting Hearing, Oath of Special Commissioner, and Notice of Hearings, developed by the County Attorney; the attorney shall file the original petition with the County Court at Law or other appropriate Court for a cause number to be assigned.
 - vii) The County attorney shall file the Lis Pendens including the cause number with the County Clerk's Office.
 - viii) Upon assignment of a court, the County Attorney shall file the Order Appointing Commissioners with the judge retaining a copy of the Order for the files.
 - ix) Following appointment of Special Commissioners by the judge, the County shall secure the following documents: Oath of Commissioners signed by the Commissioners, Order Setting Hearing, 2 copies of the Notice of Hearing signed by the Commissioners.
 - x) The County shall file all originals with the court and send copies marked "copy" to L & G Engineering.
 - xi) The County Attorney shall send a copy of the petition to the Title Company so that the Title Company can make sure the appropriate parties were joined and that no changes in title have occurred.
 - xii) The County Attorney shall set the Special Commissioners Hearing after the updated appraisal has been submitted, if there is no change in value. If there is an increase in value, County will approve the new value and the County's provider will present a revised offer and a final offer letter and submit a copy of the final offer letter.
 - xiii) The County Attorney shall coordinate a pre-hearing conference prior to the hearing (the day before or earlier) to discuss facts of the case with the County, Appraiser, and Negotiator.
 - xiv) After the hearing is set, the County Attorney shall serve Notices of Hearing to the indicated parties at least 11 days prior to the Commissioner's hearing. If it is necessary to join the Federal Government, be advised that they have an additional 60 days to prepare for the Hearing.
 - xv) Once the notices have been served, the County Attorney shall file the original notices with the court and send copies stamped "copy" to L&G Engineering ROW Office.
 - xvi) The County's Attorney shall send a reminder letter 2-3 weeks in advance to the County Administration offices, Acquisition Provider, the three special commissioners and court reporter concerning Hearing dates.

- d) Post Hearing Support (by County Attorney)
 - i) For the hearing, prepare the necessary forms and Special Commissioners time sheets and submit forms to Hidalgo County clerk's office.
 - ii) Obtain the signatures of Special Commissioners on the Award of Commissioners and file with the court for the judge's signatures within 48 hours of the Hearing.
 - iii) Give timesheets to Judge. The amount paid to the Special Commissioners is determined by the Judge.
 - iv) Obtain and distribute 3 certified copies of the award as follows: 1 certified copy to the title company with a request for a commitment, 1 certified copy to the County, 1 certified copy to L&G Engineering with the Commitment to request the warrant in the amount of the Special Commissioners Award.
 - v) Send the Commitment and the Award to County, along with individual special commissioner's billing requesting the payment for their fees.
 - vi) File County warrant in the registry of the court. File a Notice of Deposit with the court and send certified copies to each defendant notifying them of the date of the deposit. The Date of Deposit is the Date of Take.
 - vii) Take photograph of the interest to be acquired (if necessary) on the day of deposit for relocation verification.
 - viii) Send written notices of the date of deposit to the County Administration office and all interested parties.
 - ix) Appear as Expert Witness as requested. Sub-contractors must also appear as Expert Witnesses as requested.
 - x) All acquisition negotiations file indicating all "due diligence" provided by the Acquisition Provider will be directed to the County Attorney's office for his further handling in accordance to the Eminent Domain process by the County.

EXHIBIT "C"
WORK SCHEDULE

EXHIBIT "D"
FEE SCHEDULE

**EXHIBIT "D" FEE SCHEDULE
L&G Consulting Engineers, Inc
2007**

Job Description (NSPE Grade)	Base Rate*	Contract Rate**
Project Manager	50.00	155.00
Senior Engineer	44.00	136.40
Env. Manager/Specialist	43.00	133.30
Engineer	33.65	104.32
GIS/ Env. Specialist	32.09	99.48
Designer	33.00	102.30
Engineer in Training (EIT)	24.72	76.63
Engineering Technician	24.04	74.52
CADD Operator	21.00	65.10
Administrative Assistant	17.50	54.25

Direct Labor = 100.00%

Overhead = 175.00%

Direct Labor + Overhead = 275.00%

Profit Rate = 12.5%

$(275.00 \times 0.125) = 34.38$

Multiplier = $(275.00 + 34.38) / 100 =$

3.10

* Base Rate = average weighted estimated salary without burden.

** These are the rates to be used to negotiate work authorizations: These rates are estimates:

Billings will be invoiced at Base Rate marked up by 3.10

*Base Rate = estimated raw salary without burden

REIMBURSABLE DIRECT EXPENSES

Mileage	\$(***)/mi	*** Not to exceed prevailing rate for client employees (additional lodging taxes allowed)
Car Rental	\$60.00/Day	
Lodging	\$(***)/day	
Meals	\$(***)/day	
Air Travel	\$200/Round Trip	
B&W Copies (8.5x11)	\$ 0.10 /sheet	
B&W Copies (11x17)	\$ 0.20 /sheet	
Color Copies (8.5x11)	\$ 1.00 /sheet	
Color Copies (11x17)	\$ 1.50 /sheet	
Mylar (11x17)	\$ 2.00 /sheet	
Report Binders/Materials	\$ 9.00 /report	
Digital Plotter (Schematics)	\$ 1.25 /sq. ft.	
Overnite Carrier Cost	\$ 15.00 /each	
Bond Plots, third party	\$ 2.00 /linear ft.	
Mylar Plots, third party	\$ 3.50 /sq. ft.	
CADD Machine Cost	\$ - included in Overhead Rate	

EXHIBIT "D" FEE SCHEDULE
ENGINEERING BUDGET ESTIMATE AND FEE FOR FM 493 SOUTH PROJECT

	6.65 Miles				
			FEDERAL	STATE	COUNTY
ROADWAY PROJECT ENTIRE LENGTH (Miles)					
Section 1: From BUS 83 to Champion St. (0.78 mi)					
Section 2: From Champion St to US 281 (5.87 mi)					
LIMITS:					
EXISTING ROADWAY SECTION:		US 281 Military North 6.65 miles to BUS 83			
EXISTING ROW WIDTH:		64' F-F urban roadway and a 28'/32' Rural			
PROPOSED INITIAL ROADWAY SECTION:		80' - 60' (varies)			
PROPOSED ULTIMATE ROADWAY SECTION:		40' Rural			
PROPOSED ROW WIDTH:		84' F-F Urban			
		120' max			
ESTIMATED CONSTRUCTION COST ULTIMATE ROADWAY SECTION (3.6 Mill/mi) (5.87 Miles)		\$21,132,000.00			
ESTIMATED CONSTRUCTION COST INITIAL ROADWAY SECTION (BUS 83 South to US 281) (0.78 miles of 64' F-F overlay, 5.87 miles of reconstruction to 40-ft rural roadway)		\$5,198,864.93			
ESTIMATED PROJECT COSTS					
TOTAL ROADWAY CONSTRUCTION COST			\$ 3,634,649.07	\$ 1,564,215.86	\$ -
Section 1: From BUS 83 to Champion St. (0.78 mi)				\$ 219,171.98	
Section 2: From Champion St to US 281 (5.87 mi)				\$ 1,345,043.88	
WORK AUTHORIZATION NO. 1					
Schematic based on ultimate construction design (15% of 8% PS&E)					\$ 254,000.00
Preliminary ROW Ownership					\$ 35,000.00
Environmental Assessment & PI Support and Hist and Archeological					\$ 90,000.00
Design Surveys					\$ 150,000.00
Outfall Identification & Hydrologic Map Fed/state/county requirements					\$ 67,000.00
Utility Coordination on State Project w/Fed funds					\$ 102,000.00
PS&E Development (8% of est initial construction cost)					\$ 416,000.00
Bid Documents in accordance w/Fed/State					\$ 30,000.00
ESTIMATED WORK AUTHORIZATION NO. 2 PENDING					
ROW Mapping & Field Surveying (based on 126 parcels)			\$ 250,000.00	\$ 378,000.00	\$ -
Compensible Utilities (3 high-pressure gas lines)			\$ 1,110,000.00	\$ -	\$ -
Land Value Costs					\$ 1,260,000.00
Roadway Right-of-Way Costs - Acq Services @ \$10,000/Parcel Avg)					\$ 600,000.00
ESTIMATED WORK AUTHORIZATION NO. 3 PENDING					
Construction Inspection & Construction Material Testing					\$ 1,144,000.00
SUB-TOTAL WORK AUTHORIZATION NO. 1					\$ 1,260,000.00
SUB-TOTAL WORK AUTHORIZATION NO. 2					\$ 600,000.00
SUB-TOTAL WORK AUTHORIZATION NO. 3					\$ -
TOTAL PROJECT COST			\$ 4,994,649.07	\$ 1,942,215.86	\$ 2,404,000.00

EXHIBIT "E"
WORK AUTHORIZATION

HIDALGO COUNTY
Professional Engineering Services
Contract # _____
Work Authorization Form

WORK AUTHORIZATION NO. _____

THIS WORK AUTHORIZATION is made pursuant to the terms and conditions of Section I.A. of the Agreement made by and between **HIDALGO COUNTY**, action herein by and through the **Commissioner's Court**, hereinafter called the "**Owner**," and, _____, professional engineers of _____, Texas, hereinafter called "**Engineer**".

PART 1. SCOPE OF WORK

The purpose of this Work Authorization is for the **Engineer** to provide _____

The scope of services to be provided by the **Owner** is identified in **EXHIBIT "A" – Scope of Services to be Provided by the Owner** attached hereto.

The scope of services to be provided by the **Engineer** is identified in **EXHIBIT "B" – Scope of Services to be Provided by the Engineer** attached hereto.

PART 2. ESTIMATED COST

The estimated cost for services under this Work Authorization is \$ _____. This amount is based upon the costs outlined in the **Estimated Cost Proposal** attached hereto as **EXHIBIT "D"**.

PART 3. PAYMENT

Compensation and payment to the **Engineer** for the services established under this Work Authorization shall be made in accordance with **Article/Part/Section** _____ of the Agreement.

PART 4. FUNDING

This Work Authorization No. _____ shall be funded through funding source:

Account No. _____

Requisition Number _____ (MUST BE INCLUDED AFTER CC APPROVAL)

PART 5. PERIOD OF SERVICE

This Work Authorization shall become effective on the date of final acceptance of the parties hereto, and terminate upon completion of scopes of the work authorization.

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 _____, Commissioner _____ as to content and detail of this Work Authorization No. ____.

HIDALGO COUNTY

BY: _____

PART 8. ACCEPTANCE AND APPROVAL

This Work Authorization is hereby accepted, approved by Hidalgo County Commissioners' Court on _____ as indicated below and effective as of ____ day of _____, 2006.

THE ENGINEER:

**THE OWNER:
HIDALGO COUNTY**

By: Engineer

By: Juan D. Salinas, III, County Judge

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 "F"
SUPPLEMENTAL AGREEMENT

EXHIBIT "F"

Supplemental Agreement Form

THE STATE OF TEXAS §
 §
COUNTY OF HIDALGO §

SUPPLEMENTAL AGREEMENT NO. _____
TO AGREEMENT FOR PROFESSIONAL SERVICES

THIS **SUPPLEMENTAL AGREEMENT** is made pursuant to the terms and conditions of Article 8 of the Agreement made by and between **HIDALGO COUNTY**, acting herein by and through the **Commissioner's Court**, hereinafter called the "**Owner**", and _____, Professional Engineers of, _____, Texas, hereinafter called the "**Engineer**".

WITNESSETH

WHEREAS, the **Owner** and the **Engineer** executed the **Agreement** on the ____ day of _____ **2007** concerning engineering for _____ (hereinafter referred to as the "**Project**"); and,

WHEREAS, Article ____ of the **Agreement**, (article title), establishes _____; and,

WHEREAS, it has become necessary to amend the contract to _____

A. AGREEMENT

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

I. Article ____ of the **Agreement**, (article title), is revised to

All other provisions are unchanged and 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:
ENGINEER**

BY: _____

**THE OWNER:
HIDALGO COUNTY**

BY: _____
Juan D. Salinas III, County Judge

LIST OF ATTACHMENTS

(as required)

EXHIBIT "G"
CERTIFICATE OF INSURANCE

ACORD CERTIFICATE OF LIABILITY INSURANCE

07/01/08

PRODUCER Hilb Rogal & Hobbs (956)682-9423 FAX(956)687-1286 1400 N McColl Rd Suite 105 McAllen, TX 78501	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.	
	INSURERS AFFORDING COVERAGE	NAIC #
INSURED L & G Consulting Engineers Inc dba L & G Engineering 2100 W Expressway 83 Mercedes, TX 78570	INSURER A: Fidelity & Guaranty Insurance Compan	35386
	INSURER B: SOUTHERN VANGUARD INSURANCE COMPANY	22667
	INSURER C: Acc American Insurance Company	22667
	INSURER D:	22667
	INSURER E:	22667

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 LTR	ADD'L INSR	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	PACP2822L500TLC08	07/19/08	07/19/09	EACH OCCURRENCE	\$2,000,000
		GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC				DAMAGE TO RENTED PREMISES (Ea occurrence)	\$50,000
						MED EXP (Any one person)	\$5,000
						PERSONAL & ADV INJURY	\$2,000,000
						GENERAL AGGREGATE	\$4,000,000
						PRODUCTS - COMP/OP AGG	\$4,000,000
A		AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	PACP2822L500TLC08	07/19/08	07/19/09	COMBINED SINGLE LIMIT (Ea accident)	\$1,000,000
						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 AGG	\$
		EXCESS/UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE DEDUCTIBLE RETENTION \$				EACH OCCURRENCE	\$
						AGGREGATE	\$
							\$
							\$
B		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below	TSV000268001	07/23/08	07/23/09	WC STATU-TORY LIMITS	OTH-ER
						E.L. EACH ACCIDENT	\$1,000,000
						E.L. DISEASE - EA EMPLOYEE	\$1,000,000
						E.L. DISEASE - POLICY LIMIT	\$1,000,000
C		OTHER Professional	EONG2363384A002	07/20/08	07/20/09	\$1,000,000 ea. Claim	\$1,000,000 Aggregate
						\$15,000 Ded. ea. Claim	

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

** Supplemental Name **

First Supplemental Name applies to all policies - L & G Consulting Engineers Inc:

Hidalgo County & Texas Dept of Transportation is covered as Additional
(See Attached Descriptions)

CERTIFICATE HOLDER

Hidalgo County
 400 W 13th Street
 Mission, TX 78572

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

Brian E Lewis