

THE STATE OF TEXAS       §  
  §  
COUNTY OF HIDALGO       §

**PROFESSIONAL SERVICES CONTRACT**  
**C-11-071-03-07**

**THIS AGREEMENT** is made effective the 7<sup>TH</sup> day of March, 2011, by and between the **County of Hidalgo, Texas** (“County”) and **Leonel Garza, Jr. & Associates, LLC** ("Appraiser").

**W I T N E S S E T H:**

**WHEREAS**, the County requires appraisal services for: **“Projects for Precinct No. 1” (on an as needed basis)**; and

**WHEREAS**, the County of Hidalgo solicited Request for Qualifications (RFQ) for the development and establishment of a yearly pool for “Professional Appraisal Service,” and

**WHEREAS**, from which “Professional Appraiser” has been selected from the “Pool” of pre-qualified Appraisers from response to the Request for Qualifications (RFQ), and

**WHEREAS**, County has determined that the services of “Professional Appraiser” are sometimes necessary to carry out the required appraisal activities; and

**WHEREAS**, pursuant to Texas Government Code Section 2254.002, The Professional Services Procurement Act, Government Code, the County requested proposals from professional right-of-way appraiser to assist the County by providing appraisal services; and

**WHEREAS**, County has selected the Appraiser to provide appraisal services within Hidalgo County Precinct No. 3, in accordance to Exhibit “A-1”, Request for Qualifications (RFQ) Procurement Packet and through its procured approved pool of Appraisers.

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

- 1. Scope of Services.** Appraiser agrees to provide to County, The Fair Market Value Appraisals

in connection with the Acquisition of Land, Rights of Way, Easements, Condemnations and Disposition of County owned Property located within Hidalgo County Precinct No. 1 as shown in Exhibit "A" attached hereto and entitled "Services to be Provided by the Appraiser." In the event the Appraiser does not provide the fair market value appraisal prior to the date specified on the purchase order, the Purchase Order will become **NULL and VOID**. If such Purchase Order becomes **NULL and VOID** and a fair market value appraisal is secured from another firm, Appraiser will be responsible for any additional charges or expenses incurred by Hidalgo County.

Further, in the event that it is demonstrated by Appraiser that Hidalgo County has caused or delayed thus preventing the Appraiser from meeting the specified agreed upon deadline to provided the fair market value appraisal ordered, Appraiser must advise in written notice to the Purchasing Department to authorize and to secure additional time to comply.

**2. Term.** This Contract becomes effective when fully executed by both parties and will terminate **One (1) Year** from the date of execution or unless sooner terminated as provided herein. The Appraiser will not begin work or incur costs until authorized in writing by the County for each purchase order.

**3. Compensation.** As consideration for rendering the Services provided for in this Contract, the County agrees to pay the Appraiser the amounts specified in Exhibit "B" attached hereto payable against written invoice submitted by Appraiser. The Appraiser is authorized to submit periodic requests for payment within thirty days after completion of each work order. The request for payment shall be made using forms acceptable to the County and shall show the total amount earned to the date of submission and the amount due and payable as of the date of the current billing. Upon receipt of said request for payment, County shall submit a requisition for payment of said services in the customary manner provided for payments utilized by Hidalgo County, Texas. Appraiser agrees to separately account for the receipt and/or expenditure of funds received pursuant to this Contract and to keep adequate books and records of all such receipts and/or expenditures. All payments to Appraiser shall be mailed to the address shown in numbered paragraph 20, hereof.

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

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

**6. Amendments.** If it becomes necessary at any time during the contract period to change the scope of work, the contract period, the maximum amount payable, the complexity, or the character of this contract, an amendment must be prepared and executed within the contract period. The County retains the right to reject any such amendment proposed by the Appraiser unless the County finds the proposed amendment necessary to complete the work authorized herein. Any such amendments be made in writing agreed to by all parties hereto and duly executed before the end of the contract period as specified.

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

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

- 1.** Problems, delays, or adverse conditions which will materially affect the ability to meet time schedules and goals, or preclude the attainment of project work units by established time periods. This disclosure shall be accompanied by a statement of the

action taken, or contemplated, and any County or, if Federal funds are involved, Federal assistance needed to resolve the situation.

2. Favorable developments or events which enable meeting time schedules and goals sooner than anticipated or producing more work units than originally projected.

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

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

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

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

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

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

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

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

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

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

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

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

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

If to County: County of Hidalgo  
Attention: County Judge  
1615 S. Closner, Suite J  
Edinburg, Texas 78539

If to Appraiser: Leonel Garza, Jr. & Associates, LLC  
Attn: Leonel Garza, III, Co-Owner/Primary R.E.A.  
1419 Dove, Suite 1  
McAllen, Texas 78504

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

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

**22. Binding Contract.** This Contract shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors, and assigns where permitted by this contract.

**23. Gender.** All pronouns used in this Contract shall include the other gender, whether used in

the masculine, feminine or neuter gender, and the singular shall include the plural whenever and as often as may be appropriate.

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

**EXECUTED** as of the day and year first written above.

**APPROVED BY COMMISSIONER’S COURT ON \_\_\_\_\_.**

**COUNTY OF HIDALGO, TEXAS**

**APPRAISER:  
Leonel Garza, Jr. & Associates, LLC**

By: \_\_\_\_\_  
Ramon Garcia, County Judge

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

**APPROVED AS TO FORM:**  
Atlas & Hall, LLP

**ATTEST:**  
\_\_\_\_\_  
Arturo Guajardo, Jr., County Clerk

By: \_\_\_\_\_  
Stephen L. Crain

**EXHIBIT “A-1”**

# Request for Qualifications (RFQ) Procurement Packet

## **EXHIBIT “A”**

Services to be provided by Appraiser

**EXHIBIT “B”**  
Fee Schedule



**EXHIBIT “A”**  
**Services to be provided by the Appraiser**

**EXHIBIT “C”**  
Insurance Requirements