

to provide those services more particularly as described on **EXHIBIT "B"** attached hereto and made part of this agreement. **CONSULTANT** shall provide the services for the rates and fees described on **EXHIBIT "B"** attached hereto and made part of this agreement. Consultant shall commence work upon receipt of a Work Authorization issued by County.

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

2.3 Schedule of Work. The **Consultant** 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.

2.4 Non-Exclusive Services of Consultant, Hidalgo County reserves the right to request these services from other sources other than the consultant and shall not be in violation of any terms or conditions of this Agreement.

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

3.1 Termination Date. This Agreement will terminate on **August 2, 2012** hereinafter referred to as the "**Termination Date**"), unless extended by written supplemental agreement, as provided in Article 8 hereof, duly executed by the **Consultant** 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 **Consultant** for work performed or costs incurred by the **Consultant** prior to the date authorized by the **Owner** for the **Consultant** to begin work, during periods when work is suspended, or subsequent to the **Termination Date**.

3.2 Extension of the Termination Date. The **Consultant** 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 **Consultant** shall allow adequate time for review and approval by the **Owner** of the written notice and request by the **Consultant** 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 **Consultant**, followed by written confirmation from the **Owner** to the **Consultant** to that effect. The thirty-day notice may be waived as agreed in writing by both the **Owner** and the **Consultant**. 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 **Consultant**. The sixty-day notice may be waived as agreed in writing by both the **Owner** and the **Consultant**.

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 **Consultant** 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 **Consultant**. 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 **Consultant** and the **Owner**.
- (3) By the **Owner**, upon failure of the **Consultant** to fulfill the **Consultant'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 **Consultant** of such failure and the **Consultant** has not corrected such failure within (30) days of such written notice by the **Owner**.
- (4) By the **Consultant**, upon failure of the **Owner** to fulfill the **Owner's** obligations set forth herein, after the **Consultant** 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 **Consultant**.
- (5) By the **Owner** without cause upon thirty (30) days written notice to the **Consultant**.
- (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 **Consultant** notwithstanding anything herein to the contrary. In determining the value of the work performed by the **Consultant** 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 **Consultant** to fulfill the **Consultant's** obligations under this Agreement, the **Owner** may take over the Project and prosecute the

work to completion. In such case, the **Consultant** shall be liable to the Owner for any additional cost occasioned by the Owner.

If the **Consultant** defaults in the performance of this Agreement or if the **Owner** terminates this Agreement for fault on the part of the **Consultant**, the **Owner** will give consideration to payment of an amount in settlement to include: the actual costs incurred by the **Consultant** 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 **Consultant**, 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 **Consultant** under this Agreement, except the obligations set forth in Articles 11, 12, 13, 15, 16, 17, 19, 22 and 26 hereto.

ARTICLE 4. Progress and Coordination. The **Consultant** shall, from time to time during the progress of the work, confer with the **Owner**. The **Consultant** 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 **Consultant's** services and work.

At the request of the **Owner** or the **Consultant**, conferences shall be provided at the **Consultant's** office, the office of the **Owner**, or at other locations designated by the **Owner**. These conferences shall also include evaluation of the **Consultant'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 **Consultant's** preliminary report will be addressed by the **Consultant** 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 **Consultant'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 **Consultant'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 **Consultant** to determine the corrective action needed by either the **Owner** or the **Consultant**.

The **Consultant** shall promptly advise the **Owner** in writing of events which have a significant impact upon the progress of the **Consultant'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 **Consultant** within established time periods; this disclosure will be accompanied by a statement by the **Consultant** 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 Consultant, the Owner shall compensate the Consultant as follows:

5.1 Basic Services. For and in consideration of the *Services* to be rendered by the **Consultant**, as identified in Article 2 and more particularly identified in **EXHIBIT "B"**, attached hereto, the maximum amount payable by the **Owner** to the **Consultant** for *Services*, subject to adjustment in accordance with Article 6.1 herein, will be provided in each work authorization issued. Payments to the **Consultant** for

Services shall be made by the **Owner**, upon presentation by the **Consultant** 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 **Consultant** 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 **Consultant**, the **Owner** shall pay the **Consultant** 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.

ARTICLE 6. Method of Payment.

6.1 Request for Payment. Payments to the **Consultant** 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 **Consultant** 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 **Consultant** 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 **Consultant** 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 **Consultant** 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 **Consultant** by the **Owner** for the **Project** or such portions of the project shall be only the amounts paid the **Consultant** 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 **Consultant** shall submit a final request for payment (“**Final Request for Payment**”) which shall set forth all amounts due and remaining unpaid to the **Consultant** and upon approval thereof by the **Owner**, the **Owner** shall pay to the **Consultant** 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 **Consultant** delivers to the **Owner** an affidavit that so far as the **Consultant** has knowledge or information any and all amounts due for materials and services over which the **Consultant** 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 **Consultant** hereunder if any one or more of the following conditions precedent exist:

The **Consultant** 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;

- (1) Any part of such payment is attributable to the **Consultant’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 **Consultant’s** services which were performed in accordance with this Agreement.
- (2) The **Consultant** 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 **Consultant**;

- (3) If the **Owner**, in good faith judgment, determines that the portion of the compensation then remaining unpaid will not be sufficient to complete the **Consultant's** services in accordance with this Agreement, no additional payments will be due the **Consultant** hereunder unless and until the **Consultant**, at its sole cost, performs a sufficient portion of the **Consultant's** services so that such portion of the compensation then remaining unpaid is determined by the **Owner** to be sufficient to so complete the **Consultant's** services.

6.4 No partial payment made hereunder shall be or construed to be final acceptance or approval of that part of the **Consultant's** services to which such partial payment related or relieves the **Consultant** of any of its obligations hereunder with respect thereto.

6.5 The **Consultant** shall promptly pay all bills for labor and material performed and furnished by others in connection with the performance of the **Consultant'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 **Consultant** appearing after completion of the **Project**. (2) failure of the **Consultant'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 **Consultant** except those previously made in writing and identified by the **Consultant** as unsettled at the time of the **Final Request for Payment**.

ARTICLE 7. Work Authorization. After execution of this Agreement, the **Consultant** 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 **Consultant** 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 **Consultant** 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 **Consultant** 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 **Consultant**. 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 **Consultant’s** responsibilities and obligations established in this Agreement.

The estimated cost proposal for each **Work Authorization**, developed by the **Consultant** 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 **Consultant** 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 **Consultant** 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 **Consultant** and the **Owner**. The **Consultant** 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 **Consultant** 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 **Consultant**, 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 **Consultant**, and/or (3) for any other reason agreeable to the **Owner** and the **Consultant**. 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 **Consultant** 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 **Consultant** and the **Owner** prior to the **Termination Date** specified in Article 3 hereof.

It is distinctly understood and agreed that no claim by the **Consultant** 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 **Consultant** 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 **Consultant** pending verification of satisfactory work performed by the **Consultant**.

ARTICLE 9. Additional Work. If the **Consultant** 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 **Consultant** 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 **Consultant** and a written supplemental agreement will be executed between the **Owner** and the **Consultant** as provided herein. The **Consultant** shall not perform any proposed additional work or incur any additional cost prior to the execution by both the **Consultant** and the **Owner** of a supplemental agreement. Additional compensation from the **Owner** to the **Consultant** 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 **Consultant** for work

performed or costs incurred by the **Consultant** 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 Consulting principles, the **Consultant** shall make such revisions if requested and directed by the **Owner**.

10.1 Preliminary Work. The **Consultant** 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 Consulting principles.

10.2 Previously Approved or Satisfactorily Completed Work. If the **Owner** funds it necessary to request the **Consultant** 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 **Consultant** will be in accordance with Article 9 hereof.

10.3 Project Delays. If the **Consultant** is required to perform additional work due to delays by the imposition of causes not within the **Consultant'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 **Consultant** 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 cost of the **Project** to an amount within the sum estimated by the **Consultant**, the **Consultant** will be required to make such revisions or changes. These changes will only be considered additional work

by the **Consultant**, if the **Consultant** 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 **Consultant** in accordance with Article 9 hereof. If the **Consultant** 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 **Consultant**.

ARTICLE 11. Ownership and Release of Documents.

11.1 Ownership of Documents. All documents furnished to the **Consultant** by the **Owner** shall be delivered to the **Owner** upon completion or termination of this Agreement. The **Consultant**, at the **Consultant'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 **Consultant**, if procurement services are required of the **Consultant** hereunder, all discounts, rebates and refunds shall accrue to the **Owner**. For some purchases, the **Consultant** 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 **Consultant** shall promptly notify the **Owner** so that a course of action may be mutually agreed upon by the **Owner** and the **Consultant**.

ARTICLE 13. Records, Accounting, Inspection. The **Consultant** shall keep full and detailed records and accounts in a manner approved by the **Owner**. The **Consultant** shall afford the **Owner's** authorized personnel and independent auditors, if any, full access to the work performed by the **Consultant** regarding the **Project** and to all of the **Consultant's** books, records, correspondence, instructions, drawings, receipts, vouchers and other documents relating to such work under this Agreement and the **Consultant** shall

preserve all such records for three (3) years after final payment. The **Consultant** 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 **Consultant** shall not assign, subcontract or transfer the **Consultant's** interest in this Agreement without the prior written consent of the **Owner**. The **Consultant** 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 **Consultant** of any responsibilities under this Agreement.

The **Consultant**, 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 **Consultant** 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 **Consultant** or from the use of any process designed by the **Consultant** or effected by said apparatus or equipment, and the **Consultant** 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 **Consultant** all papers served on the **Owner** in any suit involving such claim of infringement, and provided further, that the **Owner** permits the **Consultant** 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 **Consultant** 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 **Consultant** hereby grants to the **Owner** a non-exclusive, royalty-free license under patents now or hereafter owned by the **Consultant** covering any machines, apparatus, processes, articles, or products included in the **Consultant's** work hereunder.

ARTICLE 16. Confidential Information, Inventions and Other Restrictions.

16.1 Confidential Information. The **Consultant** 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 **Consultant** by any of the **Owner's** commissioners, elected officials, employees, or representatives or acquired by the **Consultant** 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 **Consultant's** possession prior to such disclosure to the **Consultant** by the **Owner** or which is or shall lawfully be published or become part of general knowledge from sources other than the **Consultant** or which otherwise shall lawfully become available to the **Consultant** 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 **Consultant** 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 **Consultant** shall, however, inform each of its employees who receive such information of these restrictions and the **Consultant** 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 **Consultant** shall communicate to the **Owner** at once, and require the **Consultant's** employees assigned to this **Project** to communicate to the **Owner** all inventions and improvements which any of the **Consultant'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 **Consultant** as compensation for services rendered by the **Consultant** under contract with the **Owner**. The **Consultant** 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 **Consultant's** employees to work under any contract with the **Owner** concerning this **Project**, the **Consultant** 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. Consultant's Responsibility and Warranties.

17.1 **Consultant's Responsibility.** The **Consultant** 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 **Consultant**. No additional compensation will be made to the **Consultant** for any necessary revisions or corrections resulting from errors, omissions, or negligent acts by the **Consultant**.

17.2 Warranties.

(a) Notwithstanding anything to the contrary contained in this Agreement, the **Owner** and the **Consultant** agree and acknowledge that the **Owner** is entering into this Agreement in reliance on the **Consultant's** experience and abilities with respect to performing the **Consultant's** services hereunder. The **Consultant** accepts the relationship of trust and confidence established between it and the **Owner** by this

Agreement. The **Consultant** covenants with the **Owner** to use the **Consultant's** best efforts, skill, judgement and abilities to perform work on 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.

(b) The **Consultant** represents, covenants and agrees that all of **Consultant's** services to be furnished by the **Consultant** 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 Consultants of similar experience, knowledge, skill and ability engaged in Consulting practice throughout Texas under the same or similar circumstances involving the request of **Project**.

(c) The **Consultant** represents, covenants and agrees that the **Consultant's** special talent, training and experience cause the **Consultant** to be the prime professional on the **Project**; that because of such talent and training, the **Consultant** envisions of the **Project** in its entirety and possesses the special skills which enable the **Consultant** to recognize dangerous conditions that a reasonable, prudent Consultant having such special skills could anticipate may arise from the proper use of the **Project** after acceptance by **Owner**; and that the **Consultant** 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.

(d) If the development of **work schedule** identified in this Agreement under Article 2 hereof or **EXHIBIT "B"**, attached hereto, as part of the services to be provided by the **Consultant** for the **Project**, the **Consultant** represents, covenants and agrees that the **work schedule** of the **Project** will be accurate and free from any material errors. The **Consultant** 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 **work schedule** developed by the **Consultant** for the **Project**; that the result of such **work schedule**, 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 **Consultant'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 **work schedule** developed by the **Consultant** for the **Project**, nor shall the **Consultant** 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 **Consultant's** skill and knowledge in preparing such **work schedule**.

(e) In connection with the **Consultant's** performance of procurement services hereunder, if any, the **Consultant** 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. Consultant's Resources. The **Consultant** shall furnish and maintain, at the **Consultant'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 Employees of the Consultant. All employees of the **Consultant** 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 **Consultant** 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 **Consultant** certifies that the **Consultant** presently has employed sufficient and qualified personnel, and will maintain sufficient and qualified personnel for performance of the services under this Agreement.

18.2 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 **Consultant** 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 **Consultant** 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 **Consultant** 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 **Consultant’s** services through activities of the **Consultant**, 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 **Consultant** or of any person employed or contracted by the **Consultant** 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 **Consultant**, anyone directly or indirectly employed by the **Consultant** or anyone for whose acts the **Consultant** may be legally liable. The **Consultant** 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 **Consultant**, its agents partners, subcontractors and/or consultants. In this connection, it is agreed and understood that the **Consultant** 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 **Consultant** 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 Consultant 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 Consultant 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 **Consultant** 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 **Consultant** 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 **Consultant** will be considered in breach of contract should the **Consultant** 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 **Consultant** 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 **Consultant** 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 **Consultant** shall furnish the **Owner** with satisfactory proof of its compliance therewith.

ARTICLE 23. Non-collusion. The **Consultant** warrants that the **Consultant** has not employed or retained any company or persons, other than a bona fide employee working solely for the **Consultant**, to solicit or secure this Agreement, and that the **Consultant** has not paid or agreed to pay any company,

Consultant 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 **Consultant** to adhere to this provision may result in the termination of this Agreement.

ARTICLE 25. Payment of Franchise Tax. The **Consultant** hereby certifies that the **Consultant** is not delinquent in Texas franchise tax payments, or that the **Consultant** 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 **Consultant** shall be responsible for the settlement of all contractual and administrative issues arising out of any procurement made by the **Consultant** 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
100 E. Cano, 2nd Floor
Edinburg, Texas 78539

CONSULTANT: Brian Godinez
dba Godinez Communications
300 S. 8th Street
McAllen, Texas 78501

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

ARTICLE 29. Miscellaneous Provisions.

(a) This Agreement constitutes the entire Agreement between the **Consultant** and the **Owner** relating to the work herein described and supersedes any prior understanding or written or oral contracts between the parties respecting the subject matter defined herein. There are no previous or contemporary representations or warranties of the **Owner** or the **Consultant** not set forth herein.

(b) Except as specifically provided herein no modification, waiver, termination, rescission, discharge or cancellation of this Agreement or of any terms thereof shall be binding on the **Owner** unless in writing and executed by an officer or employee of the **Owner** specifically authorized to do so.

(c) No waiver of any provision of or a default under this Agreement shall affect the right of the **Owner** thereafter to enforce said provision or to exercise any right or remedy in the event of any other default whether or not similar.

(d) No modification, waiver, termination, discharge or cancellation of this Agreement or of any terms thereof shall impair the **Owner's** right with respect to any liabilities whether or not liquidated of the **Consultant** to the **Owner** theretofore accrued.

(e) All rights and remedies of the **Owner** specified in this Agreement are in addition to the **Owner's** other rights and remedies.

(f) The **Consultant** shall remain an independent contractor and shall have no power nor shall the **Consultant** represent that the **Consultant** 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 **Consultant** as provided by Article 8 herein.

ARTICLE 30. Signatory Warranty The undersigned signatory or signatories for the **Consultant** 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 **Consultant**. The above-stated representations and warranties are made for the purpose of inducing the **Owner** to enter into this Agreement.

WITNESS WHEREOF, the **Consultant** and the **Owner** have caused this **Agreement for Professional Consulting Services** to be effective as of the ____ day of _____, 2011.

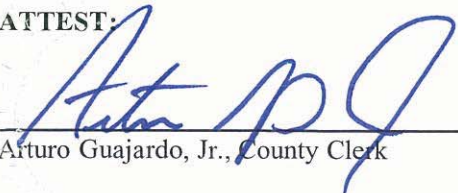
CONSULTANT:

BY:  _____

**OWNER:
HIDALGO COUNTY**

BY:  _____
Ramon Garcia, County Judge

ATTEST:



Arturo Guajardo, Jr., County Clerk

Approved by Commissioners' Court
on 8-2-11 RO

APPROVED AS TO FORM:

Atlas & Hall, L.L.P.

By:  _____
Stephen L. Crain

Approved on Commissioners' Court: August 2, 2011

ATTACHMENTS:

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

EXHIBIT A
SCOPE OF SERVICES TO BE
PROVIDED BY THE OWNER

EXHIBIT "A"

Services to be provided by the OWNER "Requirements-RFP"

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

The OWNER will provide to the CONSULTANT the following:

- (1) Authorization to the CONSULTANT to begin work in accordance with Section 3 of this Agreement.
- (2) Payment for work performed by the CONSULTANT and accepted by the OWNER in accordance with Section 6 of the Agreement.
- (3) Assistance to the CONSULTANT, as necessary, to obtain the required data and information from other local, regional, State and Federal agencies that the CONSULTANT cannot easily obtain.
- (4) Provide any available relevant data the OWNER may have on file concerning the project.
- (5) Provide timely review and decisions in response to the CONSULTANT'S request for information and/or required submittals and deliverables, in order for the CONSULTANT to maintain the agreed-upon work schedule prepared in accordance with Attachment "C" of this Agreement.
- (6) Attend and participate in progress meetings as required and as coordinated and conducted by the CONSULTANT.
- (7) Assist the CONSULTANT in the preparation of the project mailing list; provide representation, a site and stenographer for all public meetings; additionally:

Public Meetings

- (a) Approve agenda and all exhibits prior to public meeting.
- (b) Approve date and location of the meeting.
- (c) Review/approve Public Meeting Report.

- (8) Attend the Preliminary Concept Conference coordinated and conducted by the CONSULTANT and more particularly identified in Attachment "B" of the Agreement.
- (9) Review and approve the Project design criteria.
- (10) Review and approve change as required and prepared by the CONSULTANT.

EXHIBIT B
SCOPE OF SERVICES TO BE
PROVIDED BY THE CONSULTANT

**EXHIBIT B
SCOPE OF SERVICES TO BE
PROVIDED BY THE CONSULTANT**

- Discover and evaluate the current conditions and plans for County's drainage, indigent defense, communications and economic development initiatives related to revenue and expenditure efficiencies;
- Plan, prepare, facilitate, communicate and coordinate meetings, work sessions, briefings, presentations and reports for County Officials/Representatives for County's drainage, indigent defense, communications and economic development initiatives related to revenue and expenditure efficiencies on a weekly, monthly and/or quarterly basis; (or as requested by County Commissioner's Court);
- Coordinate with the County to jointly develop objectives and strategies for County's drainage, indigent defense, communications and economic development relating to County's revenue and expenditure efficiencies;
- Assist with providing appropriate input on any studies identifying concerns that impact the County relating to County's revenue and expenditure efficiencies for drainage, indigent defense, communications and economic development;
- Determine and communicate the various impacts to the County of any and/or such concerns relating to county revenue and expenditure efficiencies drainage, indigent defense, communications and economic development;
- Prepare a schedule of work;
- Prepare and present such information as may be pertinent and necessary, or as may be requested by the County, in order to evaluate features of the Consultant services and work.
- Prepare preliminary study reports for approval by the County;
- Advise the County of events which have a significant impact upon the progress of the Consultant's services and work and the approved Work Schedule;
- Prepare a Work Authorization document, which will include a description of the work to be performed, including a description of the tasks, and work schedule, and an estimated cost proposal as authorized by the County;
- Cooperate and coordinate fully with the County Commissioners' Court, as well as with the professional and administrative staffs of the County;

- Report and consult to the County Commissioners as often as reasonably necessary;
- Identify, define, and develop funding sources to support existing and planned program activities as well as coordinate the development, writing, and submission activities and programs for drainage, indigent defense, communications and economic development;
- Collect, analyze, and report data on the performance of program activities that are funded by public and private sources for drainage, indigent defense, communications and economic development;
- Research County's revenue and expenditure efficiencies in various public and private sectors including communications, online technologies, public outreach, and awareness;
- Provide sound recommendations for addressing any current and long-term problems, including detailed recommendations to improve management and effectiveness through increased or decreased funding;
- Submit a proposed schedule and tasks required to implement recommended changes;
- Develop procedures for administering the proposed expenditure efficiencies.

EXHIBIT C
WORK SCHEDULE

EXHIBIT C WORK SCHEDULE

- Work with County Officials/Representatives to research, discover and evaluate the current conditions and plans for County's drainage, indigent defense, communications and economic development initiatives related to revenue and expenditure efficiencies;
- Organize a series of meetings, work sessions, briefings with County Officials/Representatives to discuss, address and develop strategies and implementation plans for County's drainage, indigent defense, communications and economic development initiatives related to revenue and expenditure efficiencies;
- Develop, coordinate, communicate and facilitate with presentations, materials and logistics for meetings, work sessions and briefings with County Officials/Representatives to discuss, address and develop the concerns, objectives, strategies and plans for County's drainage, indigent defense, communications and economic development initiatives related to revenue and expenditure efficiencies;
- Develop impact and conclusion reports for County Officials/Representatives for County's drainage, indigent defense, communications and economic development initiatives related to revenue and expenditure efficiencies and communicate these reports on a weekly, monthly and/or quarterly basis; (or as requested by County Commissioner's Court);
- Assist with providing appropriate input on any preliminary studies identifying strategies that impact the County relating to County's revenue and expenditure efficiencies for drainage, indigent defense, communications and economic development for approval by the County;
- Identify, define, and develop funding sources to possibly support existing and planned program activities as well as coordinate the development, writing, and submission activities and programs for drainage, indigent defense, communications and economic development;
- Collect, analyze, and report data on the performance of possible program activities that are funded by public and private sources for drainage, indigent defense, communications and economic development;
- Provide sound recommendations for addressing any current and long-term problems, including detailed recommendations to improve management and effectiveness through increased or decreased funding;

- Submit a proposed schedule and tasks required to implement recommended changes;
- Develop procedures for administering the proposed expenditure efficiencies.

EXHIBIT D
CONSULTANT'S RATES

**EXHIBIT D
CONSULTANT COST / RATES**

Description - All Inclusive		Hourly Fees
Principal-in-Charge		\$135
Graphic Design		\$65
Copy Writing		\$55
Administrative Support		\$45
Material Rates		
Item	Unit Rate	
Mileage (outside of Hidalgo County)	IRS Allowable Rate	
Sub-consultant Fees	Billable Hourly Rate + 10%	
Reimbursement expenses (e.g. travel out of area, printing)	At cost plus 10% (pre-approved by the County)	

EXHIBIT E
WORK AUTHORIZATION FORM

HIDALGO COUNTY
Professional Consulting 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 consultant of _____, Texas, hereinafter called "_____".

PART 1. SCOPE OF WORK

The purpose of this Work Authorization is for the 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 Consultant is identified in *EXHIBIT "B" - Scope of Services to be Provided by the Consultant* 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 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.1 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 on _____, 2011 as indicated in the "Exhibit C-Preliminary Work Schedule".

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, County Judge as to content and detail of this Work Authorization No._____.

COUNTY OF HIDALGO

BY: _____

Ramon Garcia, County Judge

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 _____, 2011.

THE :
(Firms Name)

THE OWNER:
HIDALGO COUNTY

By: (Name of)

By: Ramon Garcia, 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 Consultant
- ATTACHMENT "C" - Work Schedule
- ATTACHMENT "D" - Cost Proposal

EXHIBIT F
SUPPLEMENTAL AGREEMENT
FORM

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 Consultant of, _____, Texas, hereinafter called the "CONSULTANT".

WITNESSETH

WHEREAS, the Owner and the CONSULTANT executed the Agreement on the ____ day of _____ 2011 concerning CONSULTANT 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 CONSULTANT 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 Consultant and the Owner have caused this Supplemental Agreement to the Agreement for Professional Services to be executed as of the _____ day of _____, 2011.

THE CONSULTANT:
CONSULTANT

BY: _____

THE OWNER:
HIDALGO COUNTY

BY: _____

Ramon Garcia, County Judge

ATTEST:

BY: _____

Arturo Guajardo, Jr., County Clerk

APPROVED AS TO FORM:

ATLAS & HALL, L.L.P.

BY: _____

Stephen L. Crain

APPROVED BY COMMISSIONERS COURT: _____

LIST OF ATTACHMENTS

(as required)

EXHIBIT G
CERTIFICATE OF INSURANCE



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
9/22/2011

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

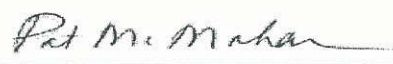
PRODUCER Alamo Insurance Group 3201 Cherry Ridge Drive Suite D405 San Antonio TX 78230		CONTACT NAME: Liz Cruz PHONE (A/C, No, Ext): (210) 930-6665 FAX (A/C, No): (210) 930-1838 E-MAIL ADDRESS: lcruz@alamoinsgrp.com	
INSURED Brian Godinez d/b/a Godinez Communications 300 S. 8th Street McAllen TX 78501		INSURER(S) AFFORDING COVERAGE INSURER A: Progressive Casualty Ins Co. INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:	

COVERAGES **CERTIFICATE NUMBER:** 11/12 Auto **REVISION NUMBER:**

THIS IS TO CERTIFY THAT 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. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COM/PROP AGG \$ \$
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS			08255095-0	9/22/2011	9/22/2012	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ PIP-Basic \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED \$ RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N/A				WC STATUTORY LIMITS OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
Hidalgo County is an additional insured on the Auto policy.

CERTIFICATE HOLDER		CANCELLATION	
Hidalgo County Attn: Purchasing Department 2812 S. Highway Bus. 281 Edingburg, TX 78539		SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE John McMahan/LIZ 	

Affidavit Agreement

Date: May 24, 2011

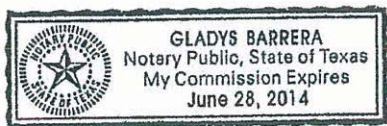
Affiant: Brian Godinez d.b.a. Godinez Communications

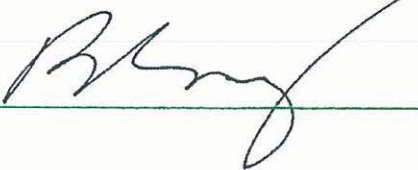
Affiant on oath swears that the following statements are true and are within the personal knowledge of Affiant.

Affiant Brian Godinez states he is a sole proprietor doing business as Godinez Communications with Hidalgo County under RFP # 2011-117 dated May 18, 2011. Affiant will provide services for Hidalgo County under a Hidalgo County RFP /Q Description: Professional Consultant Services to Assist, Assess, Review and Facilitate the County's Revenue and Expenditure Efficiencies, which will be approved upon receipt by the Hidalgo County Purchasing Department.

Affiant further states that he has no employees and does not anticipate employing any during the term of this contract. In the event Affiant does employ any staff during the contract, Affiant shall immediately notify Hidalgo County and obtain the Workers Compensation required by law. Affiant further acknowledges that failure to do so will result in cancellation of the purchase order.

Further Affiant sayeth not.





Printed Name of Affiant: Brian Godinez

SWORN AND SUBSCRIBED TO under oath before me on May 25, 2011

Gladys Barrera

Notary Public, State of Texas

See Alamo
Insurance's
Correspondence
below.

Evangelina Garcia

From: Yolanda Velasquez [yolanda.velasquez@co.hidalgo.tx.us]
Sent: Wednesday, August 17, 2011 4:14 PM
To: 'Evangelina Garcia'
Subject: FW: Godinez Communications

FYI: Rec'd from Darlene not Ms. Marty.

From: Darlene Betancourt [mailto:darlene.betancourt@co.hidalgo.tx.us]
Sent: Wednesday, August 17, 2011 1:42 PM
To: 'Yolanda Velasquez'
Subject: FW: Godinez Communications

FYI Mr. Looney

Darlene H. Betancourt, CPPB
Hidalgo County Purchasing Department
2812 S. Business Highway 281
Edinburg, TX. 78539
Phone (956) 292-7000 x-4852 Fax: (956) 292-7612

From: Martha Salazar [mailto:martha.salazar@co.hidalgo.tx.us]
Sent: Wednesday, August 17, 2011 1:41 PM
To: 'Rockio'; 'Darlene Betancourt'
Cc: 'ramon garcia'; 'Yolanda'; 'Jaime Longoria'
Subject: FW: Godinez Communications

FYI for project and contract file documentation.
Marty

From: Gary Looney [mailto:glooney@alamoinsgrp.com]
Sent: Tuesday, August 16, 2011 5:13 PM
To: Martha Salazar
Subject: Godinez Communications

We were able to find a carrier for Godinez Communications for the E&O Liability insurance you required in the RFP. Annual cost is approximately \$1,300. The 5 yr extended coverage is not available and will not be shown on the certificate of insurance. There is an option to buy upon termination for 3 yrs. Based on the RFP I don't think the extended coverage provision is applicable in this case. It will take the completion of an application and issuance by the carrier for the coverage, it should take less than a week. I will be in your offices tomorrow if you have additional questions. I'll drop by after noon my meeting is scheduled for 2 – 4 with Flora and crew.

Hope all this helps Gary

Gary Looney REBC

Senior Vice President
ALAMO INSURANCE GROUP
3201 Cherry Ridge Street Suite D405
San Antonio, Texas 78230
210.524-7104 voice
210.524-7183 fax

Evangelina Garcia

From: Martha Salazar [martha.salazar@co.hidalgo.tx.us]
Sent: Wednesday, April 27, 2011 3:37 PM
To: 'Steve Crain'
Cc: 'Yolanda Velasquez'; 'Evangelina Garcia'
Subject: RE: Draft Professional Consulting Services Agreement With Draft Attachments For "RFP-Professional Consultign Services To Assist, Assess, Review,And Facilitate Hidalgo County's Revenue And Expenditure Efficiencies In Various Public And Private Sectors Proj

Thank you

From: Steve Crain [mailto:scrain@atlashall.com]
Sent: Wednesday, April 27, 2011 2:25 PM
To: 'Martha Salazar'
Subject: RE: Draft Professional Consulting Services Agreement With Draft Attachments For "RFP-Professional Consultign Services To Assist, Assess, Review,And Facilitate Hidalgo County's Revenue And Expenditure Efficiencies In Various Public And Private Sectors Proj

It is ready to go.

From: Martha Salazar [mailto:martha.salazar@co.hidalgo.tx.us]
Sent: Wednesday, April 27, 2011 1:56 PM
To: 'Steve Crain'
Cc: 'Evangelina Garcia'; 'Yolanda Velasquez'
Subject: FW: Draft Professional Consulting Services Agreement With Draft Attachments For "RFP-Professional Consultign Services To Assist, Assess, Review,And Facilitate Hidalgo County's Revenue And Expenditure Efficiencies In Various Public And Private Sectors Proj

Mr. Crain,
Revision has been made as indicated (see attachment), having made this last revision is it safe to state that the buyer can utilized this draft contract with her packet and proceed to release. There are about three potential participants who are requesting to have a packet sent to them. Please let me know.

Thank you

From: Evangelina Garcia [mailto:evangelina.garcia@co.hidalgo.tx.us]
Sent: Wednesday, April 27, 2011 1:50 PM
To: 'Martha Salazar'
Subject: FW: Draft Professional Consulting Services Agreement With Draft Attachments For "RFP-Professional Consultign Services To Assist, Assess, Review,And Facilitate Hidalgo County's Revenue And Expenditure Efficiencies In Various Public And Private Sectors Proj

From: Yolanda Velasquez [mailto:yolanda.velasquez@co.hidalgo.tx.us]
Sent: Wednesday, April 27, 2011 11:10 AM
To: 'Vangie'
Subject: FW: Draft Professional Consulting Services Agreement With Draft Attachments For "RFP-Professional Consultign Services To Assist, Assess, Review,And Facilitate Hidalgo County's Revenue And Expenditure Efficiencies In Various Public And Private Sectors Proj

A. FOR ANY CONTRACT(S) AWARDED AND APPROVED UNDER THIS AGENDA, EXECUTED COPIES OF THE CONTRACT(S) WILL BE AVAILABLE ON THE COUNTY INTRA-NET WEBSITE AND WILL BE FOWARDED VIA E-MAIL, FAX OR HAND DELIVERED TO HIDALGO COUNTY AUDITOR'S OFFICE.

B. ANY AND ALL REQUESTS FOR PAYMENT(S) APPROVED WILL BE SUBJECT TO COUNTY AUDITORS PROCESSING PROCEDURES INCLUDING AUTHORITY FOR COUNTY TREASURER TO ISSUE PAYMENT(S)/CHECK(S).

A. Hidalgo County

nothing to report¹

Current inter-local(s) and/or contract(s) for the "Housing of Inmates"

2. **Presentation for discussion, consideration and action**

Including, but not limited to, the following items in connection with New Adult Detention Center:

nothing to report a-c

a) Detention Facility Law Enforcement Center Design- Build Contract with including action regarding Landmark Application for payment, final punch list and release of retainage

b) Construction of additional pod(s)

c) Selection and engagement of an architect for the construction of additional pods

3. Presentation for discussion, consideration and action (if necessary) including, but not limited to the following:

nothing to report a-c

a) Renovations of administration building

b) Other ongoing county owned building construction, renovation repair projects

c) Emergency situations occurring since last agenda meeting

4. **AI-27809** Acceptance and approval of the final negotiated contract document with Brian Godinez dba/Godinez Communications for the provision of "Professional Consulting Services to Assit, Assess, Review and Facilitate Hidalgo County's Revenue and Expenditure Efficiencies in Various Public and Private Sector (Including All Funding Sources, Programs and entities)"

approved



5. **AI-27780** a. Approval to nominate at least three (3) architectural and/or engineering firms (whichever professional service is most appropriate for task requested) from the approved "pools" for evaluation through the County's protocol for engagement to perform services for the development of a County-wide study assesing all buildings (as determined & identified by CC) by precinct, including an Existing Condition Analysis, a Needs Analysis, and the development of a twenty (20) year Facilities Capital Improvement Program.

no action

no action

b. Approval to select an evaluation committee to score/grade the Statements of Qualifications of the nominated firms.

6. **AI-27779** Discussion, and applicable action on County's option to issue the sixty (60) day notice of renewing the last year's extension (as per Article 1.2 Renewal or Termination), with Edinburg Real Estate Network, Inc., for the "Lease of Office Space at the Mediplex Building."

approved

7. **AI-27775** Recommending award of bid and approval of contract document to sole bidder (Rochester Armored Car Co.) meeting all specifications and/or requirements as attached hereto for: "Hidalgo County-Armored Car Services" RFB No. 2011-058-07-06-SMA.

approved

8. **AI-27719** a. Recommendation to reject submitted Statements of Qualifications received only and as yet unopened for the Request For Qualifications No. 2011-175-07-20-YZV "Legal Consultant to Assist with Negotiation of Contracts" and cancel title as originally published;

approved

b. Authority to re-advertise a new Request for Qualifications Project titled: "Professional Architectural and Engineering Consultants to assist Hidalgo County with the Negotiation of

approved



AI-27809

21. A. 4.

CC REGULAR

Meeting Date: 08/02/2011

Submitted By: Yolanda Velasquez, PURCHASING DEPT.

Department: PURCHASING DEPT.

CAPTION

Acceptance and approval of the final negotiated contract document with Brian Godinez dba/Godinez Communications for the provision of "Professional Consulting Services to Assit, Assess, Review and Facilitate Hidalgo County's Revenue and Expenditure Efficiencies in Various Public and Private Sector (Including All Funding Sources, Programs and entities)"

BACKGROUND

AI - 26799 Presented on May 31, 2011 for Approval of sole response -Acceptance of the scoring/evaluation grid and Authority for Purchasing Department to negotiate a contract.

Fiscal Impact

FISCAL YEAR:
FUNDS AVAILABLE Y/N?:

ACCT. #:
MATCHING FUNDS Y/N?:

BUDGETARY IMPACT:

Funding to be appropriated at issuance of work authorization. Each WA will need approval and funding.

Attachments

CONTRACT DOCUMENTATION
LEGAL'S APPROVAL OF CONTRACT
COPY OF AI-26799

Form Review

Inbox	Reviewed By	Date
Martha Salazar	Marty Salazar	07/28/2011 04:39 PM
Budget & Management	Merlen P. Munoz	07/28/2011 04:56 PM
Rosalinda Cantu	Rosie Cantu	07/29/2011 04:25 PM
Purchasing Department	Angela Garcia	07/29/2011 05:02 PM
Form Started By: Yolanda Velasquez		Started On: 07/28/2011 04:20 PM
	Final Approval Date: 07/29/2011	

- b) Other ongoing county owned building construction, renovation, repair projects
 c) Emergency situations occurring since last agenda meeting

- 4. AI-28195** Recommendation and request to waive the five (5) year extended reporting clause required by Hidalgo County under the professional liability insurance Exhibit C inasmuch as level of risk/liability is very low and thus not available for such professional services for the contract awarded to Brian Godinez Communiations and as further explained in supporting documentation contained and attached herein;
 approved →
- 5. AI-28229** Presentation and discussion of scoring grid of the firms responding to City of Edinburg's procurement of qualified firms for the provision of engineering services for the: Safe Routes to Schools Project participated by ECISD, City of Edinburg, County of Hidalgo (through AFA from TxDOT);
 no action
- 6. AI-28259** a. Requesting exemption from competitive procurement requirements under the Texas Local Government Code, Section 262.024(a)(7)(a) proprietary software in connection with On-line Research Services for Hidalgo County;
 approved
- b. Requesting approval of agreement(s) if applicable for "On-line Research Services" with Lexis Nexis including but not limited to the following Hidalgo County department(s):
 approved
1. Criminal District Attorney s Office
 2. Hidalgo County JP Technology
 3. Hidalgo County Clerk
- 7. AI-28293** A. Request authority to have "on call" contracted architect firm, Dannenbaum Engineering Co., conduct walk-through of vacant county-owned restitution center located on M Road in Precinct #4 for the purpose of drafting and developing plans, specifications, scopes of work to remodel building to accommodate county departments, programs, agencies and/or elected offices including to have project completed utilizing job order contractors proposals;
 approved
- B. Approval of an AIA form of agreement between Hidalgo County (owner) and Dannenbaum Engineering Co. (architect) for the Building Repairs and/or Additions, Renovations and Alterations to the Hidalgo County Elections Warehouse in the amount of \$26,402.74;
 approved
- B. Pct. 1**
- 1. AI-28202** a. Acceptance and approval of Change Order #1 in the amount of \$7,000.00 as submitted by Saenz Utility Contractors to Urban County (UCP-Contract #C-5209-91-0309-5000-9100-UCP-MC) and Precinct #1 (approved by CC 01-11-11) as the result of the addition and subtraction of quantities for Encinal #2 Subdivision due to redesign changes; and
 approved
- b. Approval to pay the Change Order #1 amount of \$7,000.00 as included in Invoice No. 4 with a grand total amount of \$67,172.10 (previously approved by CC on 07/19/11) subject to Auditor's Office processing procedures with County Treasurer issuing check; and
 approved
- c. Acceptance and approval of the "Certificate Of Construction Completion" for the construction of Encinal No.2, Los Alamos and Olivarez #2 Subdivision project as submitted to Urban County and Precinct #1 by Saenz Utility Contractors pursuant to UCP Contract #5209-91-0309-5000-9100-UCP-ML (previously submitted and approved by CC on 07/19/11).
 approved
- 2. AI-28222** Requesting approval of reimbursement in the amount of \$91,193.00 (owed to the State of Texas) payable to Texas Department of Transportation (Case #CCD-0009-A & TxDOT CSJ No. 0698-03-086) as recommended by L&G Engineering (ROW Acquisition provider for and on behalf of Hidalgo County) in relation to Highway FM 88 Project in Precinct #1 for *Parcel 10 CCD-009-A* with authority for County Treasurer to issue check after Auditor's processing procedures are completed.
 approved
- C. Pct. 2**
- 1. AI-28169** Acceptance and approval of Work Authorization No. 5 for R. Gutierrez Engineering Corporation (Contract #C-110-376-12-14) with estimated fee of \$19,200.00 for Boundary Surveying on McColi Road Off-Site Drainage Ditch.
 approved
- D. Pct. 3**



AI-28195

23. A. 4.

CC REGULAR

Meeting Date: 08/30/2011

Submitted For: Martha Salazar

Submitted By: Vangie Garcia, PURCHASING DEPT.

Department: PURCHASING DEPT.

Information

CAPTION

Recommendation and request to waive the five (5) year extended reporting clause required by Hidalgo County under the professional liability insurance Exhibit C inasmuch as level of risk/liability is very low and thus not available for such professional services for the contract awarded to Brian Godinez Communiations and as further explained in supporting documentation contained and attached herein;

BACKGROUND

Pursuant to Mr. Godinez's Insurance Company (Alamo Insurance Group), the five (5) year extended coverage is not available and will not be shown on the certificate of insurance. Based on the RFP, the required extended provision is not applicable in this case (see correspondence attached).

Contract document was approved for award by Commissioners Court on August 2, 2011 and has been pending execution until this is resolved.

Fiscal Impact

FISCAL YEAR:	ACCT. #:
FUNDS AVAILABLE Y/N?:	MATCHING FUNDS Y/N?:

BUDGETARY IMPACT:

This agenda item does have have a budget impact, this is for approval of a request to waive a requirement under our Exhibit C Insurance Docuement.

Attachments

- Exhibit C Insurance Requirement
- Alamo Insurance Correspondence
- Professional Liaibility Certificate Of Accord

Form Review

Inbox	Reviewed By	Date
Purchasing Department	Marty Salazar	08/24/2011 03:40 PM
Budget & Management	Merlen P. Munoz	08/24/2011 03:58 PM
Rosalinda Cantu	Rosie Cantu	08/25/2011 09:44 AM
Auditor's Office	Angela Garcia	08/25/2011 10:13 AM
Form Started By: Vangie Garcia		Started On: 08/23/2011 10:17 AM
Final Approval Date: 08/25/2011		