

STATE OF TEXAS §
 §
COUNTY OF HIDALGO §

AMENDED (3)

Professional Services Agreement

This Agreement, entered into this 9th day of April, 2013 by and between Urban County Program, (hereinafter called the "Party") and Hinojosa Engineering, duly authorized Engineer, herein acting by Ricardo Hinojosa, Principal Engineer (hereinafter called the "Engineer").

WITNESSETH THAT:

WHEREAS, Hidalgo County has received CDBG funds from the U.S. Dept. of Housing and Urban Development to be used by Urban County Participants. It is understood and agreed that the Party's obligation under this Agreement is contingent upon the actual receipt of adequate federal funds to meet the liabilities under this Agreement; and

WHEREAS, the Party is interested in obtaining Engineering Services; and

WHEREAS, the Engineer, duly licensed and registered to practice engineer in the State of Texas, has the professional abilities to undertake the study, evaluation, analysis and recommendations in a manner which shall provide the necessary public service while preserving and enhancing to the greatest degree possible the natural and proposed environment in the Project (as hereinafter defined) area; and

WHEREAS, the Party desires to engage the Engineer to render certain services in connection therewith;

NOW, THEREFORE, the participants do mutually agree as follows:

**SECTION I
EMPLOYMENT OF THE ENGINEER**

The Party agrees to employ the Engineer to furnish and provide the engineering services as stated in the following sections and upon receipt of such satisfactory services, the Party agrees to pay the Engineer as stated in the sections to follow.

**SECTION II
BASIC SERVICES OF THE ENGINEER**

The Engineer shall perform the following Basic Services in connection with the proposed Precinct No. 3 Street Improvements Account(s) 5006/08-93-0311-5000-9300 (the "Project") as more particularly described in Exhibit A attached hereto.

2.1 Preliminary Phase

- a. Attend preliminary conferences with the Party and, if requested, with the funding agency and other government agencies or interested parties regarding the project.
- b. As may be required, comply and receive from the Party and the funding agencies approval on all work.
- c. Prepare preliminary engineering plans on the Project in sufficient detail to indicate clearly the problems involved and solutions recommended with the cost estimates.
- d. Obtain the Party's written approval of the work of this Preliminary Phase before proceeding with the next phase.

2.2 Design Phase

- a. Attend the respective Party's meetings as requested for the purpose of explaining completed design work activities.
- b. Advise the Party of any soil investigations or tests which, in the opinion of the Engineer, may be required for the proper execution of the Project.
- c. Provide all field information and surveys required for the design of the Project.
- d. Plot field data and other survey information for the design of the Project.
- e. Prepare detailed plans, specifications and contract documents and drawings (reproducible tracings) for construction authorized by the Party.
- f. Furnish, if requested, the engineering data necessary for the Party to obtain permits required by local, state, and federal authorities.
- g. Prepare cost estimates of authorized construction, based on prices for work. If such estimated costs exceed the monies available, the Party shall be consulted so that revisions can be made to reduce the cost as required.
- h. Prepare all documents required for the advertisement and bidding of the Project in cooperation with the Party's staff.
- i. Preparation of property or easement descriptions.

2.3 Construction Phase

The Construction Phase will commence with the execution of the prime construction contract(s). The Party will issue a ten (10) day commence work notice which will signal the commencement of work under any construction contracts and will terminate upon the Party's approval of the Engineer's written approval of final payment to the Contractor(s). During the Construction Phase, the Engineer will:

- a. Assist the Party in opening and tabulating bids for the construction of the Project, and advise the Party in establishing the procedure for entering into construction phase.
- b. Prepare the formal Contract Documents for the Contractor.
- c. Make periodic visits to the site as required pursuant to the standards of Professional Engineers on projects of this nature, provide project construction supervision, to observe the progress and quality of the executed work and to determine if the work is proceeding in accordance with the contract documents.
- d. Consult with and advise the Party and issue all instructions and Change Orders to the Contractor selected by the Party.
- e. During the progress of actual construction, Engineer will keep continually the Owner informed with brief and concise information. A monthly progress report will be prepared and delivered to the Party including but limited to monies spent, construction time elapsed, percent of Project completed, a brief narrative of problems encountered and the anticipated completion date.
- f. Review shop and working drawings furnished by Contractor(s) for general compliance with design concept and with information given in contract documents.
- g. Review and provide a recommendation concerning samples, catalog data, schedules, shop drawings, laboratory, shape and mill tests of material and equipment and other data which the Contractor is required to submit, in compliance with the Contract Documents.
- h. Prepare monthly and final estimates for payments to Contractor(s).
- i. Engineer shall accompany the Party on the Final Inspection to assure that the total work has been completed in accordance with the Contract Documents.
- j. Prior to the Party's dispersal of any retainage of funds, render a written opinion to the Party that the construction has been completed according to the Contract Documents and provide the Party with a certificate of completion and release of liens documents from subcontractors.
- k. Provide the Party with bond copies of as-built drawings of the constructed improvements, within sixty (60) days of issuance of certificate of completion.
- l. The Engineer will be responsible for interim and final inspection.
- m. Furnish to the Party six (6) sets of plans and six (6) sets of specifications and contract documents.

**SECTION III
ADDITIONAL SERVICES OF THE ENGINEER**

If authorized in writing by the Party, the Engineer will furnish or obtain from others Additional Services of the following types which are not considered normal or customary basic services; these will be paid for by the Party as indicated in Section VI.

- 3.1 Services of a Resident Project Representative, and other field personnel as required, for on-the-site observations of construction, other than periodic visits covered in Section 2.3 herein.
- 3.2 Detailed mill, shop and/or laboratory inspection of materials or equipment.
- 3.3 Major revision of Contract drawings as distinguished from modifications due to change orders, modifications to reduce the cost of the project or modifications requested to meet federal, state, or local regulations.

SECTION IV REIMBURSABLE EXPENSES

- 4.1 Travel and subsistence required for the Engineer and authorized by the Party to points other than within Hidalgo County and Project site.
- 4.2 Additional copies of reports and specifications over six (6) copies and additional prints of drawings over six (6) copies.
- 4.3 Reimbursable expenses as provided in Section IV herein shall be paid to the Engineer on the basis of 1.1 times the Engineers actual cost.

SECTION V THE PARTY'S RESPONSIBILITIES

The Party will:

- 5.1 Provide full information as to requirements for the Project.
- 5.2 Assist the Engineer by providing all available information pertinent to the Project including reports and any other data relative to design and construction of the Project.
- 5.3 Furnish the services or data as required such as appropriate professional interpretations of all of the foregoing; property, boundary, easement, right-of-way, zoning, and deed restrictions; all of which the Engineer may rely upon in performing his services under this agreement.
- 5.4 Guarantee access to and make all provisions for the Engineer to enter upon public and private property as required for the Engineer to perform his services under this Agreement.
- 5.5 Examine all studies, reports, sketches, estimates, specifications, drawings, proposals, and other documents presented by the Engineer.
- 5.6 Pay for all costs incident to advertising and obtaining bids or proposals from Contractors.
- 5.7 Provide such legal and accounting services required to discharge the Party's responsibility under

the terms of this Agreement and any Agreement with any governmental agency as may be required for the project, and such auditing services as the Party may require to ascertain how or for what purpose any Contractor has used the monies paid to him under the construction contract.

- 5.8 Give prompt written notice to the Engineer whenever the Party observes or otherwise becomes aware of any defect in the Project.

SECTION VI PAYMENTS TO THE ENGINEER

The Party agrees to pay the Engineer for completed services as identified by the Party:

- 6.1 The Engineer shall be paid a total fixed amount of **\$ 70,424.05** for services rendered under this contract. Payment shall be based on request for reimbursements with documentation requested by the Party. The Engineer's fee shall be due and payable as outlined in Sections 6.2, 6.3, and 6.4 as follows.
- 6.2 At Engineer's completion and Party's approval of the Engineer's services under the Preliminary Phase, Section 2.1 of this Agreement, Party shall pay a maximum of 15% of the sum set forth in Section 6.1 above.
- 6.3 At Engineer's completion and Party's approval of the Engineer's services under the Design Phase, Section 2.2 of this Agreement, Party shall pay a maximum of 60% of the sum set forth in Section 6.1 above.
- 6.4 At Engineer's completion and Party's approval of the Engineer's services under the Construction Phase, Section 2.3 of this Agreement, Party shall pay a maximum of 25% of the sum set forth in Section 6.1 above. Such sum to be paid periodically proportionately to the percentage of construction completed by the Contractor as determined by Engineer's reports.
- 6.5 For Additional Services as provided in Section III herein the Engineer shall be paid a sum of 1.1 times the Engineer's actual cost for such services.

SECTION VII OWNERSHIP OF DOCUMENTS

Original documents, plans, designs and survey notes developed in connection with services performed hereunder belong to, and remain the property of the Party, in consideration of which it is mutually agreed that the Party will use them solely in connection with the Project and as base material for possible future projects.

SECTION VIII TERMINATION

The Party may terminate this Agreement without cause at any time by a 30-day notice in writing to the Engineer. Upon receipt of such notice, the Engineer shall, unless the notice directs otherwise immediately discontinue all services in connection with the performance of this Agreement and shall proceed to cancel promptly all existing orders and contracts insofar as such orders or contracts are chargeable to this Agreement. As soon as practical after receipt of notice of termination, the Engineer shall submit a statement showing in detail the actual services that were performed under this Agreement to date of termination, the date such services were performed and the length of time spent by each person or party engaged in performing such services on each day,

The Party shall pay the Engineer a sum of money equal to the reasonable value of the professional engineer services rendered by the Engineer to the Party in connection with the services performed under this Contract, less payments previously made by the Party to Engineer on work performed and expenses incurred by Engineer under the provisions of this Agreement. Copies of all completed or partially completed designs, plans, and specifications prepared under this Agreement shall be delivered to the Party when and if this Agreement is terminated, but subject to the restrictions as to their use, as set forth above.

Notwithstanding the above, the Engineer shall not be relieved of liability to the Party for damages sustained by the Party arising from Engineer's negligent acts, errors or omissions related to Engineer's obligations created under this Agreement.

SECTION IX COUNTY AND CITY OFFICIALS

Engineer agrees that no County or City official or Party employee shall be personally liable for any of the obligation created under this Agreement, or for any matter which may arise out of the Project, or any activities related thereto and hereby holds the Party, its political bodies and its employees harmless from and indemnifies them from any liability from any matter arising from Engineer's negligent acts, errors or omissions related to Engineer's obligations created under this Agreement.

SECTION X SUCCESSORS AND ASSIGNS

Party and Engineer each binds themselves, their partners, successors, executors, administrators, and assigns to the other party of Agreement in respect to all covenants of this Agreement. Neither the Party nor Engineer shall assign or transfer any interest in this Agreement without the written consent of the other.

SECTION XI TIME OF PERFORMANCE

The Engineer contracts and agrees to commence work within **ten (10) days** from the date of written authorization to proceed and will complete the preparation of the preliminary phase and estimates by **ninety (90) days** and will proceed upon authorization with final drawings, specifications, and contracts documents and complete same within the earliest practical time from such notice to proceed.

**SECTION XII
VENUE**

Venue and jurisdiction of any suit, right or cause of action arising under or in connection with this Contract shall lie exclusively in Hidalgo County, Texas.

**SECTION XIII
AMENDMENT**

This Agreement may be amended only by a written document executed by the parties hereto.

**SECTION XIV
COMPLIANCE WITH LOCAL LAWS**

The Engineer shall comply with all applicable laws, ordinances, and codes of the State and local governments, and the Engineer shall save the Party harmless with respect to any damages arising from any negligence of the engineer in performing any of the work embraced by this Contract.

**SECTION XV
ASSIGNABILITY**

The Engineer shall not assign any interest in this Contract, and shall not transfer any interest in the same (whether by assignment or novation) without the prior written consent of the Party thereof; provided however, that claims for money due or to become due to the Engineer from the Party under this Contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the Party.

**SECTION XVI
GENERAL**

- 16.1 Audit. The Party and/or any of its duly authorized representatives shall have access to any books, documents, papers, and records of the Engineer which are directly pertinent to the Project for the purpose of making the audit, examination, excerpts, and transcriptions.
- 16.2 The Engineer agrees to comply with the following Executive orders, Titles and Program Regulations, including any additional requirements that may be set forth by the Party.
- a. Title VI of the Civil Rights Act - requires that no one may be denied access to benefits from projects which receive federal assistance.
 - b. Section 109 of the Housing and Community Development Act of 1974 - Nondiscrimination related to benefits from projects funded specifically under Title I of the Act.
 - c. Section 3 of the HUD Act of 1968 - requires that maximum effort be made to provide employment, training, and business opportunities to low income families and/or residents of the project area.

- d. The Engineer shall give the United States Department of Housing and Urban Development, the Inspector General, the Comptroller General of the United States, the Auditor of the State of Texas, access to and the right to examine all books, accounts, records, reports, files, and other papers, things, or property belonging to or in use by Engineer pertaining to this Agreement. Such rights to access shall continue as long as the records are retained by Engineer. Engineer agrees to maintain such records in an accessible location for a period of three (3) years.
- e. Executive Order 11246 (paragraph a-c for contracts under \$10,000; paragraphs a-g for contracts over \$10,000) - Equal Employment Opportunity.

Executive Order 11246. Executive Order 11246 and the regulations issued pursuant thereto (24 CFR Part 130) which provides that no person shall be discriminated against on the basis of race, color, religion, sex, or national origin in all phases of employment during the performance of federal or federally assisted contracts. Such consultants or subcontractors shall take affirmative action to ensure fair treatment in employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination rates of pay or other forms of compensation and selection for training and apprenticeship.

Equal Employment Opportunity for Activities and Contracts not Subject to Executive Order 11246, as amended. In carrying out the program, the Consultant shall not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The Engineer shall take affirmative action to ensure that applicants for employment are employed and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not limited to the following: Employment, upgrading, demotion, or transfer; recruitment or other forms of compensation; and selection for training, including apprenticeship. The Engineer shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Government setting forth the provisions of this paragraph in all of its contracts for program work and will require all of its consultants for such work to incorporate such requirements in all subcontracts for program.

- 16.3 Interest of Certain Federal Officials: No member of or Delegate to the Congress of the United States and no Resident Commissioner, shall be admitted to any share or part of this Agreement or to any benefit to arise from the same.
- 16.4 Interest of Members, Officers, or Employees of Public Body, Member of Local Governing Body, or other Public Officials: No member, officer, or employee of the County or City, or its designees or agents, no member of the governing body of the locality in which the program is situated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the program during his tenure or for one year thereafter, shall have any interest, direct or indirect, to be performed in connection with the program assisted under the Agreement. The Engineer shall incorporate or cause to be incorporated in all such documents in the paragraph in this Section.

SECTION XVII INSURANCE

The Engineer shall obtain and keep in force during the term of its engagement on the Project, insurance as follows:

- 17.1 A comprehensive automobile liability policy covering liability exposure to bodily injury and property damages. The Engineer shall furnish Party Certificates of Insurance showing the comprehensive automobile liability insurance policies to be in effect, commencing when Engineers commence operations under this Agreement, in the sum of Three Hundred Thousand Dollars (\$300,000.00) for bodily injury and One Hundred Thousand Dollars (\$100,000.00) for property damages.
- 17.2 Uninsured/Underinsured motorist coverage in an amount equal to the bodily injury limits set forth immediately above;
- 17.3 A Five Hundred Thousand Dollar (\$500,000.00) Comprehensive General Liability Insurance Policy providing additional coverage to all underlying liabilities of County consistent with potential exposure of County under the Texas Tort Claims Act;
- 17.4 Workers Compensation Insurance in amount established by Texas law, unless the engineer is specifically exempted from the Texas Worker's Compensation Act, Texas Labor Code Chapter 401, et. seq.
- 17.5 All insurance policies must be written by an insurance company or companies acceptable to the Party.

SECTION XVIII WARRANTY

- 18.1 Engineer represents and warrants to Owner all services rendered to Owner under this Agreement shall, at a minimum, comply with the Texas Engineering Practices Act (Tex. Civ. St. Ann., Article 3271) and rules of the Texas Board of Professional Engineers.

Exhibit “A”

(Scope of Services)

Street Improvements

1. Los Ebanos (9ML to 10ML)
2. Abram Road (7ML to 8ML)
3. 2 Mile Line (FM 492 to Abram Rd)

(See attached)



COUNTY COMMISSIONER PRECINCT 3
County of Hidalgo

Joe M. Flores
County Commissioner Pct. No. 3

March 25, 2013

Diana Serna, Director
Urban County Program
c/o Candace Armenta, Program Coordinator
1916 Tesoro Blvd.
Pharr, Texas 78577

Dear Ms. Serna:

Please amend the contract with Hinojosa Engineering on the 2 Mile Line from 492 to Abram Road. The amendment should to include the two attached proposal agreements. Please utilize the Precinct #3 Urban County street line item funds.

Should you need additional information, please do not hesitate to contact my office.

Sincerely,

Joe M. Flores, Commissioner
Hidalgo County Precinct #3

HINOJOSA ENGINEERING, INC.
Civil Engineering • Structural Engineering • Land Surveying
108 W. 18TH Street Mission, Tx. 78572
OFFICE (956)581-0143 FAX (956)581-2074

March 27, 2013

Candace Armenta
Program Coordinator
Hidalgo Urban County Program
Tel: (956) 787-8127
Fax: (956) 318-2988

PROJECT: Hidalgo County Precinct No. 3; 2 Mile Road (Abram Rd to FM 492)

Re: Additional Surveying Services

Dear Candace,

The referenced project was initially designated to be constructed by a paving contractor through competitive bids. We provide a reference line and benchmark information and the contractor uses the references to provide his own construction staking. However, the County has presently decided to construct the street. The services that will need to be provided for the project were not included in the original scope since it was to be constructed through a contractor, however the county relies on the engineer to perform the construction staking for new construction projects. Therefore, we have submitted a cost to perform this service for the county. Please let me know if there are any questions on this item or further clarification is needed on any item.

Respectfully,



Reynaldo Robles, P.E.



HINOJOSA ENGINEERING, INC. Structural Engineering • Civil Engineering • Land Surveying
REGISTRATION NUMBER F-908 EXPIRATION DATE 09/30/2012

PROPOSAL AGREEMENT (SURVEYING)

Hidalgo County Precinct No. 3
Commissioner Joe Flores.
724 N. Breyfogle
P.O. Box 607
Mission, Texas 78572

August 9, 2012

Re: **Additional Services 2012: Fiscal Year 19 Additions to 2 Mile Line**

Project No.: 06-358 (B)

Attn: Commissioner Joe Flores

Per your request, we are providing you with the following proposal-agreement for ON-SITE Surveying Services for the above mentioned project.

SCOPE OF SERVICES (Basic Services)

The scope of work for the above described services is limited to:

1. Boundary Survey & Metes and Bounds (Additional Right of Way)
 - a. 35.0' ROW, Lateral 2 B From Main Canal to West ROW of 50.0' Road

\$750.00

Total = \$750.00

EXCLUSIONS

Excluded in this proposal is OFF-SITE Surveying work other than the scope of services described above, additional services required by major modifications made to the project by either the Owner or representatives after initiation of survey phase. A separate additional services contract mutually acceptable by the Client shall be drafted to accommodate any major Surveying changes. Also, excluded are any Off-Site Surveying Services, Right-of-way map or any abstracting related to right-of-way acquisition, parcels plats, or metes and bounds, and Subdivision Plat Process. All of the work excluded in the foregoing are considered additional services and will be charged according to the terms and conditions of our standard agreement. See SURVEYING FEE section for our prevailing hourly rates.



HINOJOSA ENGINEERING, INC. Structural Engineering • Civil Engineering • Land Surveying
 REGISTRATION NUMBER F-908 EXPIRATION DATE 09/30/2012

Page 2 of 2

Hidalgo County Precinct No. 3
 Commissioner Joe Flores.
 724 N. Breyfogle
 P.O. Box 607
 Mission, Texas 78572

August 9, 2012

Re: Additional Services 2012: Fiscal Year 19 Additions to 2 Mile Line

Project No.: 06-358 (B)

SURVEYING FEE

This proposal provides for the performance of professional work for basic services as described in the SCOPE OF SERVICES section. Authorization will first be obtained from Commissioner Joe Flores before performing work beyond the Basic Services Scope of Work due to conditions that may occur for which we are not responsible.

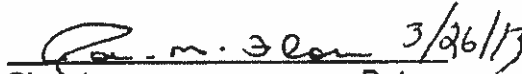
SCHEDULE FOR COMPLETION OF PROJECT

If the terms and conditions contained herein are acceptable to you, sign and return one copy of this proposal. The opportunity to provide this professional service is greatly appreciated. Please do not hesitate to call if you have any questions or comments regarding this proposal-agreement.

Sincerely,
HINOJOSA ENGINEERING, INC.


 Ricardo Hinojosa, President

Client Approval:


 Signature Date

 Print Name



PROPOSAL AGREEMENT (SURVEYING)

Hidalgo County Precinct No. 3
Commissioner Joe Flores.
724 N. Breyfogle P.O. Box 607
Mission, Texas 78572

March 22, 2013

Re: Fiscal Year 19- 2 Mile Line Construction Staking 2013

Project No.: 06-358 (C)

Attn: Commissioner Joe Flores

Per your request, we are providing you with the following proposal-agreement for ON-SITE Surveying Services for the above mentioned project.

SCOPE OF SERVICES (Basic Services)

The scope of work for the above described services is limited to:

1. Stake Existing Right of Way for Mile 2 Road
Between FM 492 & Abram Road
3 Days = 24 Hrs. @ 88.00 = \$2,112.00
2. Stake Center Line for Proposed Road Layout
3 Days = 24 Hrs. @ 88.00 = \$2,112.00
3. Stake Off Sets for Proposed Road Layout
5 Days = 40 Hrs. @ 88.00 = \$3,520.00

Total = \$7,744.00

EXCLUSIONS

Excluded in this proposal is OFF-SITE Surveying work other than the scope of services described above, additional services required by major modifications made to the project by either the Owner or representatives after initiation of survey phase. A separate additional services contract mutually acceptable by the Client shall be drafted to accommodate any major Surveying changes. Also, excluded are any Off-Site Surveying Services, Right-of-way map or any abstracting related to right-of-way acquisition, parcels plats, or metes and bounds, and Subdivision Plat Process. All of the work excluded in the foregoing are considered additional services and will be charged according to the terms and conditions of our standard agreement. See SURVEYING FEE section for our prevailing hourly rates.



Page 2 of 2

Hidalgo County Precinct No. 3
Commissioner Joe Flores.
724 N. Breyfogle
P.O. Box 607
Mission, Texas 78572

March 22, 2013

Re: Fiscal Year 19- 2 Mile Line Construction Staking 2013

Project No.: 06-358 (C)


SURVEYING FEE

This proposal provides for the performance of professional work for basic services as described in the SCOPE OF SERVICES section. Authorization will first be obtained from Commissioner Joe Flores before performing work beyond the Basic Services Scope of Work due to conditions that may occur for which we are not responsible.

SCHEDULE FOR COMPLETION OF PROJECT

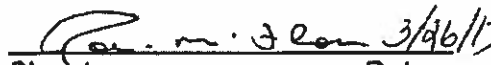
If the terms and conditions contained herein are acceptable to you, sign and return one copy of this proposal. The opportunity to provide this professional service is greatly appreciated. Please do not hesitate to call if you have any questions or comments regarding this proposal-agreement.

Sincerely,
HINOJOSA ENGINEERING, INC.

 3-22-13

Ricardo Hinojosa, President

Client Approval:

 3/26/13

Signature Date

Print Name