

THE STATE OF TEXAS §
 §
COUNTY OF HIDALGO §

SUPPLEMENTAL AGREEMENT NO. 1
TO AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES,
C-19-016-08-13

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 **B2Z Engineering, LLC**, Professional Engineers of **Mission, Texas**, hereinafter called the “**Engineer**” (collectively “**Parties**”).

WITNESSETH

WHEREAS, the **Owner** and the **Engineer** executed the **Agreement** on the 13th day of August, 2019 concerning Engineering for the Dicker Road Project (from SP 115 to FM 2061) in Hidalgo County Precinct 2 hereinafter referred to as the (“**Project**”); and,

WHEREAS, Article 8 of the **Agreement**, *Supplemental Agreements*, establishes that **Parties** may agree to amend the Agreement for reasons agreeable to Owner and Engineer and shall use this Supplemental Agreement Form to effectuate said amendment; and,

WHEREAS, it has become necessary to amend the **Agreement** to address necessary contract clauses.

A. AGREEMENT

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

I. **Agreement**, is modified to include the following Articles:

ARTICLE 31. Nondiscrimination. Company, including subcontractors, assignees and successors in interest, ensures that no person shall on the grounds of race, religion, color, national origin, sex, age, or disability, or any other protected class under law, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination or retaliation in any federally or non-federally funded program or activity when providing any services described herein under this contract/Contract. Applicable nondiscrimination statements and provisions of Title VI of the Civil Rights Act of 1964, as amended, were provided as part of the initial procurement packet and are incorporated herein and made part of this agreement for all purposes.

ARTICLE 32. Additional Documents. The parties hereto covenant and agree that they will execute each such other and further instruments and documents as are or may become necessary or convenient to effectuate and carry out the terms of this agreement.

ARTICLE 33. Required Contract Provision for Contracts Subject to Federal Award (if applicable). The following are incorporated into this agreement for all purposes. Pursuant to 2 CFR 200.326, a non-federal entity's contracts must contain the applicable provisions described in appendix II to 2 CFR 200-Contract Provisions for non-Federal Entity Contracts under Federal Awards. Additionally, County contracts under Federal award which are subject to assistance from the Federal Emergency Management Agency (FEMA) are also required to contain additional contract clauses. Additionally, section 23 CFR 172.9(c)(1) provides for the incorporation of certain contract provisions either physically or by reference into the language of each contract or subcontract for professional service providers of federal road projects subject to federal award, as applicable:

- (i) The County shall consider administrative, contractual and legal remedies and sanctions in accordance with Federal and State laws and regulations where consultants violate or breach contract terms and conditions. Applicable provisions are found herein including, but not limited to, ARTICLE 3 and the corresponding procurement packet.
- (ii) The County provides notice of requirements and regulations pertaining to reporting herein and in the corresponding procurement packet.
- (iii) The County provides notice of requirements and regulations pertaining to copyrights and rights in data in the corresponding procurement packet and in this agreement, including, but not limited to ARTICLE 11.
- (iv) In addition to the provisions of this agreement, including but not limited to ARTICLE 13, the recipient, the subrecipient, FHWA, the U.S. Department of Transportation's Inspector General, the Comptroller General of the United States, or any of their duly authorized representatives have access to any books, documents, papers, and records of the consultant which are directly pertinent to this specific contract for the purpose of making audit, examination, excerpts, and transcriptions;
- (v) In addition to the provisions of this agreement, including but not limited to ARTICLE 13, all required records are to be retained for not less than three (3) years after the County makes final payment and all other pending matters are closed;
- (vi) Standard DOT Title VI Assurances (DOT Order 1050.2) and applicable nondiscrimination statements and provisions of Title VI of the Civil Rights Act of 1964 are referenced and/or incorporated in ARTICLE 31 and No. 15 of the

legal notice of the corresponding procurement packet. Engineer, and its successors and assigns agree to abide by these provisions;

- (vii) Disadvantaged Business Enterprise (DBE) assurance, as specified in 49 CFR 26.13(b) are incorporated by reference. DBE is addressed on the DBE Form included in the corresponding procurement packet. Applicable DBE assurance specified in 49 CFR 26.13(b), provides:

(b) Each contract you sign with a contractor (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance: The contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT–assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

- (1) Withholding monthly progress payments;
- (2) Assessing sanctions;
- (3) Liquidated damages; and/or
- (4) Disqualifying the contractor from future bidding as non-responsible.

- (viii) Prompt pay requirements, as specified in 49 CFR 26.29 are incorporated by reference. ARTICLE 6 of the agreement addresses payment provisions. In accordance with 49 CFR 26.29: Engineers, as a prime contractor, are required to pay subcontractors for satisfactory performance of their contracts no later than 30 days from receipt of each payment the County makes to the Engineer.
- (ix) Determination of allowable costs in accordance with the Federal cost principles. Pursuant to 23 CFR 172.3, Federal cost principles means the cost principles contained in 48 CFR part 31 of the Federal Acquisition Regulation for determination of allowable costs of commercial, for-profit entities and are hereby incorporated by reference.
- (x) The County's requirements pertaining to consultant errors and omissions may be found in this agreement, including but not limited to ARTICLES 17 & 19, herein.
- (xi) In addition to any conflict of interest provisions found in this agreement or the corresponding procurement packet, the County incorporates by reference the requirements pertaining to conflicts of interest, as specified in 23 CFR 1.33.

- (xii) A provision for termination for cause and termination for convenience by the County including the manner by which it will be effected and the basis for settlement. Applicable provisions are found herein including, but not limited to, ARTICLE 3 and the corresponding procurement packet.

Lastly, Pursuant to 23 CFR 172.9(c)(2), all contracts and subcontracts exceeding \$100,000 shall contain, either by reference or by physical incorporation into the language of each contract, a provision for lobbying certification and disclosure, as specified in 49 CFR part 20. As such, 49 CFR 20.100 – 20.605, Appendix A & B to Part 20 and corresponding procurement packet provisions are incorporated by reference.

All other provisions are unchanged and remain in full force and effect.

IN WITNESS WHEREOF, the Engineer and the Owner have caused this Supplemental Agreement to the Agreement for Professional Services to be executed as of the _____ day of _____, 2020.

**THE ENGINEER:
B2Z Engineering, LLC.**

BY: _____

**THE OWNER:
HIDALGO COUNTY**

BY: _____
Richard Cortez, County Judge