

THE STATE OF TEXAS

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COUNTY OF HIDALGO

**PROFESSIONAL SERVICES AGREEMENT  
C-19-158-06-06**

**THIS AGREEMENT** is made effective the **06th day of June, 2019**, by and between the **County of Hidalgo, Texas** ("County") and **R.O.W. Surveying Services, L.L.C.** ("Surveyor").

**WITNESSETH:**

**WHEREAS**, the County requires "Surveying Services" for "**Road and Bridge, C.I.P. and Other Projects in General**" (on an as needed basis) located within **Hidalgo County Precinct No. 3**, and

**WHEREAS**, the County of Hidalgo solicited Request for Qualifications (RFQ) for the development and establishment of a yearly pool for "Professional Surveying Services", and

**WHEREAS**, from which "Professional Surveyor" has been selected from the "Pool" of pre-qualified Surveyors from response to the Request for Qualifications (RFQ), and

**WHEREAS**, County has determined that the services of "Professional Surveyor" are sometimes necessary to carry out the required Surveying activities; and

**WHEREAS**, pursuant to Texas Government Code Section 2254.002, "The Professional Services Procurement Act," the County requested proposals from professional Surveyors to assist the County by providing Surveying services; and

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

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

1. **Scope of Services.** Surveyor agrees to provide to County "Surveying services" for and in connection to the: "**Road and Bridge, C.I.P. and Other Projects in General**" (on an as needed basis) located within **Hidalgo County Precinct No. 3**, as shown in Exhibit "A" attached hereto and entitled "Services to be Provided by the Surveyor". In the event the Surveyor does not provide the Scope of Services prior to the date specified on the purchase order, the Purchase Order will become NULL and VOID. If such Purchase Order becomes NULL and VOID and the Scope of Services is secured from another firm, Surveyor will be responsible for any additional charges or expenses incurred by Hidalgo County.

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

2. **Term.** This Agreement shall commence upon approval of this agreement for a term of **one (1) year**, effective **June 06, 2019**, expiring, **June 05, 2020** or unless sooner terminated as provided herein. The Surveyor will not begin work or incur costs until authorized in writing by the County for each "**Purchase Order**".

The County assumes no liability or obligation for payment to the Surveyor for work performed or costs incurred by the Surveyor prior to the date authorized by the County for the Surveyor to begin work, during periods when work is suspended, or subsequent to the Termination Date.

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

4. **Compensation.** As consideration for rendering the Services provided for in this Agreement, the County agrees to pay the Surveyor the amounts specified in Exhibit "B" attached hereto payable against written invoice submitted by Surveyor. The Surveyor is authorized to submit

periodic requests for payment within thirty days after completion of each work order. The request for payment shall be made using forms acceptable to the County and shall show the total amount earned to the date of submission and the amount due and payable as of the date of the current billing. Upon receipt of said request for payment, County shall submit a requisition for payment of said services in the customary manner provided for payments utilized by Hidalgo County, Texas. Surveyor agrees to separately account for the receipt and/or expenditure of funds received pursuant to this Agreement and to keep adequate books and records of all such receipts and/or expenditures.

All payments to Surveyor shall be mailed to the address shown in numbered paragraph 21, hereof.

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

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

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

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

**8. Reporting.** The Surveyor shall promptly advise the County in writing of events which have a significant impact upon the agreement, including:

- a.** Problems, delays, or adverse conditions which will materially affect the ability to meet time schedules and goals, or preclude the attainment of project work units by established time periods. This disclosure shall be accompanied by a statement of the action taken, or contemplated, and any County or, if Federal funds are involved, Federal assistance needed to resolve the situation.
- b.** Favorable developments or events which enable meeting time schedules and goals sooner than anticipated or producing more work units than originally projected.

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

**10. Independent Contractor.** Surveyor must comply with all applicable Hidalgo County policies and with any applicable federal, state or local laws, regulations, orders or ordinances applicable to the services provided by Surveyor under this Agreement. Notwithstanding the foregoing sentence, Surveyor represents and maintains that it is an independent contractor and is not an employee of Hidalgo County, Texas, or any agency thereof, and represents and warrants that

it does not desire or request any fringe benefits provided to employees of Hidalgo County, Texas, and/or any agency thereof, including, but not limited to benefits associated with Hidalgo County's civil service program. Surveyor agrees to be responsible for any federal income tax, withholding or social security tax liability that might arise from payments received hereunder.

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

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

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

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

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

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

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

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

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

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

If to County: County of Hidalgo  
Attention: County Judge  
100 East Cano, 2<sup>nd</sup> Floor  
Edinburg, Texas 78539

If to Surveyor: R.O.W. Surveying Services LLC  
900 S. Stewart Rd. Suite 13  
Mission, Texas 78572

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

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

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

**23. Gender.** All pronouns used in this Agreement shall include the other gender, whether used in the masculine, feminine or neuter gender, and the singular shall include the plural whenever and as often as may be appropriate.

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

**25. Commitment of Current Revenues Only.** In the event that, during any term hereof, the Commissioners Court does not appropriate sufficient funds to meet the obligations of County under this Agreement, County may terminate this Agreement upon ninety (90) days written notice to

Company. County 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 County. Agreements for the acquisition, including lease of real or personal property under Tex. Loc. Govt. Code §271.903: In the event that, during any term hereof, the Commissioner's Court does not appropriate sufficient funds to meet the obligations of County under this Agreement, County may terminate this Agreement upon ninety (90) days written notice to Company, County agrees, however, to use a best efforts attempt to obtain and appropriate funds for payment of the Agreement. The parties intend this provision, if applicable, to be a continuing right to terminate this at the expiration of each budget period of County in accordance with Tex. Loc. Govt. Code §271.903 (Vernon Supp. 1996).

**26. Immunities.** Nothing in this Agreement is intended to and County does not hereby waive, release or relinquish any right to assert any of the defenses County enjoys by virtue of the state or federal constitution, laws, rules or regulations, and any sovereign, official or qualified immunity available to County as to any claim or action of any person, entity, or individual against County.

**27. 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/agreement. 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 a part of this agreement for all purposes.

**28. 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 contract/agreement.

**29. Required Contract Provision for Contracts Subject to Federal Award (if applicable):** 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. The applicable required contract clauses were provided as part of the initial procurement packet and are incorporated herein and made part of this agreement for all purposes.

**WITNESS WHEREOF**, the **Surveyor** and the **Owner** have caused this **Agreement for Professional Services** to be effective as of the \_\_\_\_ day of \_\_\_\_\_, **2019**.

**SURVEYOR: R.O. W. Surveying Services LLC**

**BY:** \_\_\_\_\_  
Name and Title

**OWNER:  
HIDALGO COUNTY**

**BY:** \_\_\_\_\_  
Hon. Richard F. Cortez, County Judge

**ATTEST:**

\_\_\_\_\_  
Arturo Guajardo, Jr., County Clerk

**APPROVED AS TO FORM:**

Office of the Hidalgo County Criminal District Attorney  
Civil Litigation Division

By: \_\_\_\_\_  
Assistant District Attorney  
Civil Litigation Division

**ATTACHMENTS:**

- EXHIBIT A-1 -Request for Qualifications (RFQ) Procurement Packet
- EXHIBIT A -Scope of Services to be provided by the Surveyor
- EXHIBIT B -Surveying Rate Schedule
- EXHIBIT C -Certificate of Insurance (*Hidalgo County*)

**EXHIBIT "A-1"**  
Request for Qualifications (RFQ) Procurement Packet

**EXHIBIT "A"**  
Scope of Services to be provided by the Surveyor

**EXHIBIT "B"**  
**Surveying Rate Schedule**

**EXHIBIT "C"**  
**Insurance Requirements**