

THE STATE OF TEXAS   §  
  §  
COUNTY OF HIDALGO   §

**AGREEMENT FOR PROFESSIONAL SERVICES  
C-20-204-06-09**

**THIS AGREEMENT** is made, by and between **HIDALGO COUNTY**, acting herein by and through the **Commissioner’s Court**, hereinafter called the “**Owner**”, and **B2Z Engineering, LLC**, Professional Construction Managers of **Mission, Texas**, hereinafter called the “**Construction Manager**”.

WITNESSETH:

**WHEREAS**, pursuant to Texas Government Code Chapter 2254.002, (the “Texas Professional Services Procurement Act”), the Owner requested Requests for Qualifications (RFQ) from professional construction management firms;

**WHEREAS**, from the responses to the Requests for Qualifications the County developed and established a pool of construction management firms;

**WHEREAS**, from which **Construction Manager** has been selected from the “Pool” of pre-qualified construction management firms from the responses to such Request for Qualifications (RFQ); and

**WHEREAS**, the **Owner** desires to contract with the **Construction Manager** to provide professional construction management services required for the **Programming, Design, Construction Management and Oversight** of the **Hidalgo County Health Department Testing/Bio-Safety Laboratory** for **Hidalgo County** hereinafter referred to as the “**Project**”.

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

**ARTICLE 1. Employment of Construction Manager.** The **Owner** agrees to employ the **Construction Manager** and the **Construction Manager** agrees to perform professional construction management services in connection with the **Project** as stated in the articles to follow and for having rendered such services, the owner agrees to pay **the Construction Manager** compensation as stated in the articles to follow.

**ARTICLE 2. Character and Extent of Services.** This Agreement will provide for the development of the **Project** with the following:

**2.1 Scope of Work.** The **Owner** will furnish items and provide those services for the development of the **Project** and fulfillment of this Agreement, as identified in **EXHIBIT “A”** *Services to be Provided by the Owner*, attached hereto and made a part of this Agreement.

**2.2 Classification of Services.** For this Agreement, the professional services to be provided by the **Construction Manager**, are more particularly identified in **EXHIBIT “B”**, attached hereto.

**2.3 Schedule of Work.** The **Construction Manager** 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.

**ARTICLE 3. Period of Service.** Upon execution of this Agreement, the **Construction Manager** shall proceed with the work outlined under Article 2 hereof following receipt of a Work Authorization issued by Owner.

**3.1 Termination Date.** This Agreement shall terminate on June 30, 2022 or upon completion of project (hereinafter referred to as the “**Termination Date**”), unless extended by written supplemental agreement, as provided in Article 8 hereof, duly executed by the **Construction Manager** 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 **Construction Manager** for work performed or costs incurred by the **Construction**

**Manager** prior to the date authorized by the **Owner** for the **Construction Manager** to begin work, during periods when work is suspended, or subsequent to the **Termination Date**.

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

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 **Construction Manager** 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 **Construction Manager**. 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 **Construction Manager** and the **Owner**.
- (3) By the **Owner**, upon failure of the **Construction Manager** to fulfill the **Construction Manager'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 **Construction Manager** of such failure and the **Construction Manager** has not corrected such failure within (30) days of such written notice by the **Owner**.
- (4) By the **Construction Manager**, upon failure of the **Owner** to fulfill the **Owner's** obligations set forth herein, after the **Construction Manager** 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 **Construction Manager**.
- (5) By the **Owner** without cause upon thirty (30) days written notice to the **Construction Manager**.
- (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 **Construction Manager**

notwithstanding anything herein to the contrary. In determining the value of the work performed by the **Construction Manager** 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 **Construction Manager** to fulfill the **Construction Manager's** obligations under this Agreement, the **Owner** may take over the Project and prosecute the work to completion. In such case, the **Construction Manager** shall be liable to the Owner for any additional cost occasioned by the Owner.

If the **Construction Manager** defaults in the performance of this Agreement or if the **Owner** terminates this Agreement for fault on the part of the **Construction Manager**, the **Owner** will give consideration to payment of an amount in settlement to include: the actual costs incurred by the **Construction Manager** 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 **Construction Manager**, 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 **Construction Manager** under this Agreement, except the obligations set forth in Articles 11.2, 12, 13, 15, 16, 17, 18.3, 19, 22 and 26 hereto.

**ARTICLE 4. Progress and Coordination.** The **Construction Manager** shall, from time to time during the progress of the work, confer with the **Owner**. The **Construction Manager** 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 **Construction Manager's** services and work. The parties acknowledge that the Construction Manager is not the contractor performing the construction services for the Project and that the Construction Manager will be reporting to the Owner on work performed by the contractor and the schedule for such work and that references to the schedule should cover both the schedule for the Construction Manager's services hereunder and the contractor's work under the Owner's agreement with the contractor once it is executed.

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

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

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

1. **RESIDENT OR SITE CONSTRUCTION MANAGER, INSPECTOR** Actual performance of services of project site Construction Manager, resident Construction Manager and/or inspector, if required by **Owner**.
2. **EXTRA TRAVEL** Extra travel required of **Construction Manager** and authorized by **Owner** to points outside of Hidalgo County.
3. **EXPERT WITNESS** Assistance to the **Owner** as expert witness in any litigation with third parties, arising from the development or construction of the **Project**.
4. **MISCELLANEOUS.** Investigations involving detailed consideration of operation, maintenance and overhead expenses and (unless otherwise agreed) the preparation of rate schedules, earning and expense statements; preparation of feasibility studies; environmental document preparation; appraisals, valuations, and material audits; or inventories required for certification of force account construction performed by the **Owner**; preparation of change orders for extra work done by the **Contractor**.

## **ARTICLE 6. Method of Payment.**

**6.1 Request for Payment.** Payments to the **Construction Manager** 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 **Construction Manager** 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 **Construction Manager** 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 **Construction Manager** 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 thirty (30) working days after the Commissioners Court of the **Owner** meets approving such payment, the **Owner** shall make payment to the **Construction Manager** 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 **Construction Manager** by the **Owner** for the **Project** or such portions of the project shall be only the amounts paid to the **Construction Manager** 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 **Construction Manager** shall submit a final request for payment (“**Final Request for Payment**”) which shall set forth all amounts due and remaining unpaid to the **Construction Manager** and upon approval thereof by the **Owner**, the **Owner** shall pay to the **Construction Manager** 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 **Construction Manager** delivers to the **Owner** an affidavit that so far as the **Construction Manager** has knowledge or information any and all amounts due for materials and services over

which the **Construction Manager** has control have been paid. For the avoidance of doubt, the parties acknowledge that the Construction Manager's services hereunder will not be complete until the contractor has completed the Project, paid any subcontractors and vendors and delivered proof thereof to Owner, which has been reviewed and approved by the architect.

**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 **Construction Manager** hereunder if any one or more of the following conditions precedent exist:

- (1) The **Construction Manager** 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;
- (2) Any part of such payment is attributable to the **Construction Manager'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 **Construction Manager's** services which were performed in accordance with this Agreement.
- (3) The **Construction Manager** 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 **Construction Manager**;
- (4) If the **Owner**, in good faith judgment, determines that the portion of the compensation then remaining unpaid will not be sufficient to complete the **Construction Manager's** services in accordance with this Agreement, no additional payments will be due the **Construction Manager** hereunder unless and until the **Construction Manager**, at its sole cost, performs a sufficient portion of the **Construction Manager's** services so that such portion of the compensation then remaining unpaid is determined by the **Owner** to be sufficient to so complete the **Construction Manager's** services.

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

**6.5** The **Construction Manager** shall promptly pay all bills for labor and material performed and furnished by others in connection with the performance of the **Construction Manager's** services. The Construction Manager is not, however, expected to have any consultants or subcontractors.

**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 **Construction Manager** appearing after completion of the **Project**. (2) failure of the **Construction Manager's** services to comply with the requirements of this Agreement or any contracts or Agreements related to the **Project**, (3) terms of any special warranties required by this Agreement or provided at law or in equity or (4) any services hereunder agreed by the parties to be performed subsequent to such **Final Payment**. The Owner anticipates a one-year warranty period being included in the contractor's contract, and in the event, there is such period, the Construction Manager's supervisory and review services during that warranty period are included in Basic Services and not released by the Owner having made the Final Payment. The acceptance of **Final Payment** shall constitute a waiver of all claims by the **Construction Manager** except those previously made in writing and identified by the **Construction Manager** as unsettled at the time of the **Final Request for Payment**.

**ARTICLE 7. Work Authorization.** After execution of this Agreement, the **Construction Manager** 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 **Construction Manager** 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 **Construction Manager** 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 **Construction Manager** 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 **Construction Manager**. 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 **Construction Manager’s** responsibilities and obligations established in this Agreement. Notwithstanding the foregoing and anything else to the contrary contained herein, the parties acknowledge that all of the services on Exhibit “B” are included on the 1<sup>st</sup> Work Authorization, which is expected to be the only Work Authorization under this Agreement.

Each executed **Work Authorization** shall become a part of this **Agreement**. Upon satisfactory completion of the **Work Authorization**, the **Construction Manager** 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 **Construction Manager** 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 **Construction Manager** and the **Owner**. The **Construction Manager** 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 **Construction Manager** 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 **Construction Manager**, 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 **Construction Manager**, and/or (3) for any other reason agreeable to the **Owner** and the Construction Manager. 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”**. The parties may, however use any other mutually agreed form of amendment. Regardless of form, Construction Manager acknowledges and agrees that the Commissioners Court of Owner, by majority vote, is the only representative of Owner, having the power to enter into a contract, Work Authorization, Supplemental Agreement or other amendment, or agree to an extension of the contractual completion date.

If determined appropriate by the **Owner**, additional compensation to the **Construction Manager** 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 **Construction Manager** and the **Owner** prior to the **Termination Date** specified in Article 3 hereof.

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

**ARTICLE 9. Additional Work.** If the **Construction Manager** 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 **Construction Manager** 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 **Construction Manager** and a written supplemental agreement will be executed between the **Owner** and the **Construction Manager** as provided herein. The **Construction Manager** shall not perform any proposed additional work or incur any additional cost prior to the execution by both the **Construction Manager** and the **Owner** of a supplemental agreement. Additional compensation from the **Owner** to the **Construction Manager** 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 **Construction Manager** for work performed or costs incurred by the **Construction Manager** 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 Construction Management principles, the **Construction Manager** shall make such revisions if requested and directed by the **Owner**.

**10.1 Preliminary Work.** The **Construction Manager** 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 construction management principles.

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

**10.3 Project Delays.** If the **Construction Manager** is required to perform additional work due to delays by the imposition of causes not within the **Construction Manager's** control, such as by the re-advertisement of bids or by the delinquency or insolvency of contractors, such additional work associated with these delays shall be considered additional work, and the **Construction Manager** 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 construction cost of the **Project** to an amount within the sum estimated by the **Construction Manager**, the **Construction Manager** if requested in writing by the **Owner** will be required to make such revisions or changes. These changes will only be considered additional work by the **Construction Manager**, if the **Construction Manager** 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 **Construction Manager** in accordance with Article 9 hereof. If the **Construction Manager** 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 **Construction Manager**.

**ARTICLE 11. Ownership and Release of Documents.**

**11.1 Ownership of Documents.** Original drawings, specifications and any documents related to the Project (the “**Project Documents**”) are the property of the **Owner**. The **Project** is the property of the **Owner**. The **Construction Manager** may not use the Project Documents for any purpose not relating to the **Project** without the **Owner’s** consent. The **Owner** shall be furnished with such reproductions of Project Documents as the **Owner** may reasonably require. All such reproductions shall be the property of the **Owner** who may use them without the **Construction Manager’s** permission for any proper purpose relating to the **Project**, including but not limited to additions to or completion of the **Project**.

All documents furnished to the **Construction Manager** by the **Owner** shall be delivered to the **Owner** upon completion or termination of this Agreement. The **Construction Manager**, at the **Construction Manager’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. **Construction Manager** shall refer all such requests to the **Owner**.

**ARTICLE 12. Discounts, Rebates, Refunds.** In connection with procurement services rendered by the **Construction Manager**, if procurement services are required of the **Construction Manager** hereunder (which is not currently anticipated), all discounts, rebates and refunds shall accrue to the **Owner**. For some purchases, the **Construction Manager** 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 **Construction Manager** shall promptly notify the **Owner** so that a course of action may be mutually agreed upon by the **Owner** and the **Construction Manager**.

**ARTICLE 13. Records, Accounting, Inspection.** The **Construction Manager** shall keep full and detailed records and accounts in a manner approved by the **Owner**. The **Construction**

**Manager** shall afford the **Owner's** authorized personnel and independent auditors, if any, full access to the work performed by the **Construction Manager** regarding the **Project** and to all of the **Construction Manager's** books, records, correspondence, instructions, drawings, receipts, vouchers and other documents relating to such work under this Agreement and the **Construction Manager** shall preserve all such records for three (3) years after final payment. The **Construction Manager** 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 **Construction Manager** shall not assign, subcontract or transfer the **Construction Manager's** interest in this Agreement without the prior written consent of the **Owner**. The **Construction Manager** 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 **Construction Manager** of any responsibilities under this Agreement.

The **Construction Manager**, 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 **Construction Manager** 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 **Construction Manager** or from the use of any process designed by the **Construction Manager** or effected by said apparatus or equipment, and the **Construction Manager** 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 **Construction Manager** all papers served on the **Owner** in any suit involving such claim of infringement, and

provided further, that the **Owner** permits the **Construction Manager** 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 **Construction Manager** 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 **Construction Manager** hereby grants to the **Owner** a non-exclusive, royalty-free license under patents now or hereafter owned by the **Construction Manager** covering any machines, apparatus, processes, articles, or products included in the **Construction Manager's** work hereunder.

**ARTICLE 16. Confidential Information, Inventions and Other Restrictions.**

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

**17.1 Construction Manager's Responsibility.** The **Construction Manager** shall be responsible for the accuracy of the services for the **Project** and shall promptly make necessary revisions or corrections resulting from errors, omissions, or negligent acts by the **Construction Manager**. No additional compensation will be made to the **Construction Manager** for any necessary revisions or corrections resulting from errors, omissions, or negligent acts by the **Construction Manager**.

**17.2 Warranties.** (a) Notwithstanding anything to the contrary contained in this Agreement, the **Owner** and the **Construction Manager** agree and acknowledge that the **Owner** is entering into this Agreement in reliance on the **Construction Manager's** experience and abilities with respect to performing the **Construction Manager's** services hereunder. The **Construction Manager** accepts the relationship of trust and confidence established between it and the **Owner** by this Agreement. The **Construction Manager** covenants with the **Owner** to use the **Construction Manager's** best efforts, skill, judgment and abilities 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. The **Construction Manager** represents covenants and agrees that there are no obligations, commitments or impediments of any kind that will limit or prevent performance of the **Construction Manager's** services.

(b) The **Construction Manager** represents, covenants and agrees that all of **Construction Manager's** services to be furnished by the **Construction Manager** 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 Construction Managers of similar experience,

knowledge, skill and ability engaged in construction management practice throughout Texas under the same or similar circumstances involving the design and construction of **Project**.

**ARTICLE 18. Construction Manager's Resources.** The **Construction Manager** shall furnish and maintain, at the **Construction Manager'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 Project Manager.** The **Construction Manager** shall provide a manager (**Project Manager**) for the **Project**. The **Project Manager** shall have such knowledge and experience as will enable that **Project Manager** during the course of the **Project** to supervise the services provided to **Owner** hereunder. The initial **Project Manager** is: \_\_\_\_\_. If, due to situations beyond the control of the **Construction Manager**, the **Construction Manager** must change the **Project Manager** prior to the completion and acceptance of the **Project**, the **Construction Manager** will submit a request to change the **Project Manager** to the **Owner** for approval. Notwithstanding anything to the contrary in this Agreement, including Exhibit B and any Work Authorization, neither the Project Manager nor any other individual or entity shall act as a representative of the Owner, as only Commissioners Court has such authority.

**18.2 Employees of the Construction Manager.** All employees of the **Construction Manager** 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 **Construction Manager** 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 **Construction Manager** certifies that the **Construction Manager** 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 **Construction Manager** 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 **Construction Manager** will facilitate such information exchange as part of the services provided hereunder.

**ARTICLE 19. Indemnification.** To the fullest extent permitted by applicable law, the **Construction Manager** 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 **Construction Manager’s** services through activities of the **Construction Manager**, 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 **Construction Manager** or of any person employed or contracted by the **Construction Manager** 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 **Construction Manager**, anyone directly or indirectly employed by the **Construction Manager** or anyone for whose acts the **Construction Manager** may be legally liable. The **Construction Manager** 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 **Construction Manager**, its agents' partners, subcontractors and/or consultants. In this connection, it is agreed and understood that the **Construction Manager** 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 **Construction Manager** shall obtain and maintain insurance in the limits of liability for each of the types of insurance coverage identified on **Exhibit "I"** attached hereto.

The **Construction Manager** covenants and agrees to maintain an insurance policy in the minimum limits of liability for each of the types of insurance coverage identified in the above paragraph. The **Construction Manager** 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 is attached hereto and identified as **EXHIBIT "G"- Hidalgo County Certificate of Insurance**. The **Construction Manager** will be considered in breach of contract should the **Construction Manager** 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 **Construction Manager** 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 **Construction Manager** 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 **Construction Manager** shall furnish the **Owner** with satisfactory proof of its compliance therewith.

**ARTICLE 23. Non-collusion.** The **Construction Manager** warrants that the **Construction Manager** has not employed or retained any company or persons, other than a bona fide employee working solely for the **Construction Manager**, to solicit or secure this Agreement, and that the **Construction Manager** has not paid or agreed to pay any company, Construction Manager 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 **Construction Manager** to adhere to this provision may result in the termination of this Agreement.

**ARTICLE 25. Payment of Franchise Tax.** The **Construction Manager** hereby certifies that the **Construction Manager** is not delinquent in Texas franchise tax payments, or that the **Construction Manager** 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 **Construction Manager** shall be responsible for the settlement of all contractual and administrative issues arising out of any procurement made by the **Construction Manager** 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:

<u><b>OWNER</b></u>	<u><b>CONSTRUCTION MANAGER</b></u>
<b>Hidalgo County 100 E. Cano St. 2<sup>nd</sup> Floor Edinburg, Texas 78539</b>	<b>B2ZEngineering, LLC PO Box 2724 McAllen, Texas 78502</b>

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 **Construction Manager** 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. These are no previous or contemporary representations or warranties of the **Owner** or the **Construction Manager** 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 by Commissioners Court 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 **Construction Manager** 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 **Construction Manager** shall remain an independent contractor and shall have no power nor shall the **Construction Manager** represent that the **Construction Manager** 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 in writing 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 **Construction Manager** as provided by Article 8 herein. Without limiting the

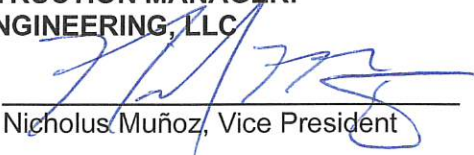
generality of the foregoing, Construction Manager acknowledges and agrees that the Commissioners Court of Owner, by majority vote, is the only representative of Owner having the power to enter into a contract, Work Authorization, Supplemental Agreement or other amendment, or agree to an extension of the contractual completion date

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

*[Signature page follows]*

IN WITNESS WHEREOF, the **Construction Manager** and the **Owner** have caused this **Agreement for Professional Services** to be entered into effective as of the \_\_\_\_ day of \_\_\_\_, 2020.

**CONSTRUCTION MANAGER:  
B2Z ENGINEERING, LLC**

By:   
Nicholas Muñoz, Vice President

**OWNER:  
HIDALGO COUNTY**

By: \_\_\_\_\_  
Richard F. Cortez, County Judge

**ATTEST:**

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

**Commissioners' Court Approval Date** \_\_\_\_\_, 2020

**APPROVED AS TO FORM:**  
Hidalgo County District Attorney's Office

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

**ATTACHMENTS:**

- LOCATION MAP**
- EXHIBIT A** –Scope of Services to be provided by the Owner
- EXHIBIT B** –Scope of Services to be provided by the Construction Manager
- EXHIBIT C** –Work Schedule
- EXHIBIT D** –Contract 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

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The following provides an outline of the services to be provided by the **Owner** in the development of the “**Health Department Testing/Bio-Safety Laboratory**” for **Hidalgo County** hereinafter denoted as the **Project**.

**GENERAL:**

The **Owner** will provide to the **Construction Manager** the following:

- 1) Provide the authorization to proceed with services through coordination with the project consulting and design Engineer.
- 2) Payment for work performed by the **Construction Manager** and accepted by the **Owner** in accordance with Articles 5 and 6 of the Agreement.
- 3) Assistance to the **Construction Manager**, as necessary, to obtain the required data and information from other local, regional, State and Federal agencies the **Construction Manager** 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 **Construction Manager’s** request for information and/or required submittals and deliverables, in order for the **Construction Manager** to maintain the agreed upon work schedule prepared in accordance with Exhibit “C” attached to this Work Authorization.
- 6) Attend and participate in progress meetings as required and as coordinated and conducted by **Construction Manager**.

EXHIBIT "B"  
SCOPE OF SERVICES TO BE PROVIDED BY THE CONSTRUCTION  
MANAGER

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**PROJECT DESCRIPTION**

The services designated herein as "Services provided by the CONSTRUCTION MANAGER" shall include the performance of all construction manager services for the following described facility:

COUNTY/CITY: HIDALGO COUNTY

PROJECT/DESCRIPTION: HEALTH DEPARTMENT TESTING/BIO-SAFETY LABORATORY

**EXHIBIT “B”**  
**SCOPE OF SERVICES TO BE PROVIDED BY THE CONSTRUCTION**  
**MANAGER**

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**1. Pre-Design Phase Services**

B2Z Engineering will work with Hidalgo County representatives to develop a Construction/Project Management Plan, which shall define and document all project requirements. This will serve to outline the scope of work of each of the team members and the plans and strategies for fulfilling those requirements. Developing the Construction Management Plan (CMP) is imperative during the pre-design phase to define the project requirements, guidelines, and methods and procedures. Our goal is to accomplish the following items identified as part of the CMP:

- 1.1. Identify project stakeholders, key staff and the project team and their respective roles
- 1.2. Assist in the development of a program and preliminary design
- 1.3. Review current budget and develop Master Project Budget
- 1.4. Develop Master Schedule with short and long-term milestones
- 1.5. Review Master Planning and Development Documents
- 1.6. Identify planned infrastructure improvements as they relate to the project
- 1.7. Identify risks or potential icebergs and develop recovery plans
- 1.8. Identify gaps within the program, budget, schedule and quality expectations
- 1.9. Explore project phasing and sequencing
- 1.10. Discuss all owner needs such as FF&E and additional consultants to establish an overall project budget
- 1.11. Identify communication pathways and needs
- 1.12. Establish quality assurance expectations
- 1.13. Establish project control procedures
- 1.14. Clarify methods of claims avoidance and how to foster a collaborative team approach
- 1.15. Develop the Project in the Project Management Information Software (PMIS)
- 1.16. Attend coordination meetings as necessary with Architect, Project Consultants, and Hidalgo County
- 1.17. Meetings & Coordination with Project Owner/Sponsor. Coordinate and Conduct Bi-Monthly Briefings to Hidalgo County Commissioner's Court or Chief's of Staff.

**2. Pre-Construction (Design) Phase Services**

**2.1. Management of Design Phase**

B2Z Engineering will provide Construction Management services for the design phase and support the development of scopes of construction work to be included in design review and delivery of construction documents. Activities to include:

- 2.1.1. Oversight of Architect & Design
- 2.1.2. Design Management for Budget Adherence
- 2.1.3. Cost control with assistance to CMAR in periodic cost estimates
- 2.1.4. Design schedule adherence
- 2.1.5. Key stakeholder approvals and acceptance
- 2.1.6. Quality reviews

# EXHIBIT “B”

## SCOPE OF SERVICES TO BE PROVIDED BY THE CONSTRUCTION MANAGER

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- 2.1.7. Assist CMAR in Constructability reviews
- 2.1.8. Assist CMAR in Evaluation of alternative construction methods
- 2.1.9. Assist CMAR in Value engineering

### 2.2. Task Sequencing

B2Z Engineering will develop a Gantt chart or similar task sequencing model with a level of detail necessary to establish the overall sequence of project elements and timing for completion of those elements and the overall project. The master critical path schedule will include the following:

- 2.2.1. Design Milestones
- 2.2.2. Procurement Milestones
- 2.2.3. Permitting and Regulatory Process
- 2.2.4. Construction
- 2.2.5. Close-out
- 2.2.6. Commissioning (if applicable)
- 2.2.7. Ongoing schedule review

### 2.3. Contractor Bid Solicitation and Selection

B2Z Engineering will work in conjunction with Hidalgo County and project architects/engineers in order to solicit, review and select the contractor through the **Construction Manager at Risk (CMAR)** Delivery Method. This will include assistance in the development and execution of:

- 2.3.1. Bid Packages
- 2.3.2. Required Pre-Bid Conferences
- 2.3.3. Review of Bid Documents/Proposals
- 2.3.4. Contractor Selection
- 2.3.5. Permits and Insurance
- 2.3.6. Notice of Award
- 2.3.7. Notice to Proceed

## 3. Construction Phase Services

Acting as liaison for the county, B2Z Engineering will operate as Hidalgo County’s Representative in overseeing the day to day construction activities in the field. Oversight of the Contractor and consultants in all aspects of project control (quality, budget, schedule, & scope) is vital for successful project delivery.

### 3.1. Construction Management

- 3.1.1. Quality Assurance (QA)/Quality Control (QC)
- 3.1.2. Permit Coordination Assistance
- 3.1.3. Daily Construction Administration
- 3.1.4. Document Control
- 3.1.5. Monitor Overall Project Schedule
- 3.1.6. Monitor Activities
- 3.1.7. Change order Management & Processing

**EXHIBIT “B”**  
**SCOPE OF SERVICES TO BE PROVIDED BY THE CONSTRUCTION**  
**MANAGER**

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- 3.1.8. Procedure for processing Contractor Payments
- 3.1.9. Contractor Payment Review
- 3.1.10. Shop Drawing Management
- 3.1.11. Maintenance of the as-built documents
- 3.1.12. Safety & Health Program
- 3.1.13. Operations planning & Management review

**3.2. Field Inspection Services**

B2Z Engineering will provide on-site field representation to ensure building construction compliance to schedule, budget, quality and contractual requirements. On-site field representation during the construction phase will allow us to conduct, prepare and/or present the following:

- 3.2.1. Daily Field Reports
- 3.2.2. B2Z will prepare a daily log of all project activity to include:
  - 3.2.2.1. Weather
  - 3.2.2.2. Contractor(s) manpower
  - 3.2.2.3. Contractor(s) equipment
  - 3.2.2.4. Material/equipment deliveries
  - 3.2.2.5. General description of work performed and location
  - 3.2.2.6. Issues and areas of concern or critical to job progress

**3.3. Monthly Progress Reports**

Each month, B2Z will prepare a monthly report outlining the activities of the preceding month. The report will include, but not limited to, the following information as required by Hidalgo County:

- 3.3.1. Updated project information
- 3.3.2. Updated budget information
- 3.3.3. Updated schedule information
- 3.3.4. Progress photos

**3.4. Progress Photos**

B2Z will take and maintain a progress photo catalog on behalf of Hidalgo County. Each month, a disk of progress photos will be cataloged and be included in the Monthly Progress report. At the completion of the project, all photos will be transferred to Hidalgo County via the county's preferred method (i.e. disk, external hard drive, etc.).

**3.5. Project Progress Meetings**

B2Z will organize, conduct, and document progress meetings involving the project architect/engineers, the contractor's principal personnel, and as required, Hidalgo County staff. Topics covered will include:

- 3.5.1. Quality Assurance (QA)/Quality Control (QC)
- 3.5.2. On-site Construction Administration
- 3.5.3. Document Control
- 3.5.4. Schedule Adherence

## EXHIBIT “B”

### SCOPE OF SERVICES TO BE PROVIDED BY THE CONSTRUCTION MANAGER

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- 3.5.5. Budget Adherence
- 3.5.6. Change orders
- 3.5.7. Contractor Payment Review
- 3.5.8. Shop Drawings
- 3.5.9. Maintenance of the as-built documents
- 3.5.10. Safety & Health

#### 3.6. Project Controls

By incorporating third-party project management software and the latest project control systems, vital information can be provided in a timely manner so that important decisions can be made by key stakeholders. These systems assist in creating a transparent environment where all stakeholders will have access to project information. B2Z Engineering will coordinate with the appropriate persons to manage the processing of schedules, design deliverables and distribution, invoices, contracts, change orders, amendments and other controls to develop systems that result in the delivery of work and services on time and on budget. Some of the key benefits of successful project control system are:

- 3.6.1. Transparency
- 3.6.2. Reporting to Key Stakeholder’s
- 3.6.3. Record keeping of all inspection logs, test reports, pay requests, daily reports, change orders, submittals, RFI’s, invoices, contracts,
- 3.6.4. Expediting Contractor and Consultant Pay Requests

#### **4. Project Close-Out Phase Services**

Project close out is a critical project element, that when performed properly will create significant benefits for Hidalgo County. B2Z will manage and assist the County during this phase to ensure successful transition from project close-out to building occupancy and finally building operations. Key elements of project close-out include:

- 4.1. Occupancy Permits
- 4.2. Preventative Maintenance Programs
- 4.3. Management of Warranties
- 4.4. Asset Preservation
- 4.5. All Necessary Financial & Project Information

## EXHIBIT "C" WORK SCHEDULE

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The Work Schedule will be specific to each Work Authorization completed under the Contract for this **Project**. The **Construction Manager** will provide a Work Schedule as an attachment/exhibit to each Work Authorization. Work will need to be completed in accordance with Article 2 and 4 of this Contract (Article 2 – Character and Extent of Service, Article 4 – Progress and Coordination).

## EXHIBIT “D”



### Contract Rates

Personnel Classification	Hourly Base Rate	Contract Rate FY 2019	Contract Rate FY 2020†	Contract Rate FY 2021†
Senior Project Manager / Principal	\$ 75.00	\$ 251.71	\$ 259.27	\$ 267.04
Project Manager	\$ 68.00	\$ 228.22	\$ 235.07	\$ 242.12
Senior Engineer	\$ 62.00	\$ 208.08	\$ 214.33	\$ 220.76
Geotechnical Engineer	\$ 60.00	\$ 201.37	\$ 207.41	\$ 213.64
Construction Engineer / PMP	\$ 55.00	\$ 184.59	\$ 190.13	\$ 195.83
Construction Superintendent	\$ 50.00	\$ 167.81	\$ 172.84	\$ 178.03
Environmental Manager (10+ Years Exp.)	\$ 49.00	\$ 164.45	\$ 169.39	\$ 174.47
Project Engineer (10+ Years Exp.)	\$ 45.00	\$ 151.03	\$ 155.56	\$ 160.23
Engineering Lab Manager	\$ 40.00	\$ 134.25	\$ 138.28	\$ 142.42
Design Engineer (5~10 Years Exp.)	\$ 40.00	\$ 134.25	\$ 138.28	\$ 142.42
GIS / Sr. Eng. Tech	\$ 38.00	\$ 127.54	\$ 131.36	\$ 135.30
Senior Environmental Specialist	\$ 37.00	\$ 124.18	\$ 127.90	\$ 131.74
Senior Construction Inspector	\$ 36.00	\$ 120.82	\$ 124.45	\$ 128.18
EIT	\$ 29.00	\$ 97.33	\$ 100.25	\$ 103.26
Construction Record Keeper	\$ 28.00	\$ 93.97	\$ 96.79	\$ 99.70
Unmanned Aircraft System (UAS) Pilot	\$ 25.00	\$ 83.90	\$ 86.42	\$ 89.01
Laboratory Field Technician	\$ 24.00	\$ 80.55	\$ 82.97	\$ 85.45
Engineer Tech	\$ 24.00	\$ 80.55	\$ 82.97	\$ 85.45
CADD Operator	\$ 21.00	\$ 70.48	\$ 72.59	\$ 74.77
Admin/Clerical	\$ 20.00	\$ 67.12	\$ 69.14	\$ 71.21
Overhead Rate*: 199.66% Profit Rate: 12.00%	Contract Rates include labor, overhead, and profit. Contract Rates to be used to derive lump sum totals. All rates are negotiated rates and are not subject to change or adjustment.			
<b>Direct Expenses:</b>				
Lodging.....	\$96/night			
Meals.....	\$55/day			
Mileage.....	\$0.575/mile			
Car Rental.....	\$60.00/Day			
Aerial Drone Flight.....	\$250.00/hr			
Air Travel (Coach/Business Class).....	<b>At Cost</b>			
8 1/2" X 11" copies.....	\$1.00/sheet			
11" X 17" copies.....	\$1.50/sheet			
Overnight Mail - Letter Size.....	\$15.00/Each			
Overnight Mail - Oversized Box.....	\$25.00/Each			

\* = Overhead Rate is TxDOT 2018 Approved Audited Overhead Rate.

† = 3% Escalation Rate added to future fiscal years.

EXHIBIT "E"  
SAMPLE WORK AUTHORIZATION FORM

**HIDALGO COUNTY**  
**Professional Construction Management Services**  
**Contract # C-XX-XXX-XX-XX**  
**Work Authorization Form**

**WORK AUTHORIZATION NO. \_\_\_\_\_**

**THIS WORK AUTHORIZATION** is made pursuant to the terms and conditions of Article 7 of the Agreement made by and between **HIDALGO COUNTY**, action herein by and through the **Commissioner's Court**, hereinafter called the "**Owner**," and, **B2Z Engineering, LLC**, professional Construction Managers of Mission, Texas, hereinafter called "**Construction Manager**".

**PART 1. SCOPE OF WORK**

The purpose of this Work Authorization is for the **Construction Manager** 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 **Construction Manager** is identified in *EXHIBIT "B" – Scope of Services to be provided by the Construction Manager* 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" Fee Schedule*.

**PART 3. PAYMENT**

Compensation and payment to the **Construction Manager** for the services established under this Work Authorization shall be made in accordance with **Article 6** of the Agreement.

**PART 4. FUNDING**

This Work Authorization No. \_\_\_ 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 upon completion of scopes of the work authorization.

**EXHIBIT "E"**  
**SAMPLE WORK AUTHORIZATION FORM**

**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** \_\_\_\_\_, Commissioner \_\_\_\_\_ as to content and detail of this **Work Authorization No.** \_\_\_\_\_.

**HIDALGO COUNTY**  
**COMMISSIONER PRECINCT NO.** \_\_

**BY:** \_\_\_\_\_

**PART 8. ACCEPTANCE AND APPROVAL**

This Work Authorization is hereby accepted, approved by Hidalgo County Commissioners' Court on \_\_\_\_\_ as indicated below.

**THE CONSTRUCTION MANAGER:**  
**B2Z ENGINEERING, LLC**

**THE OWNER:**  
**HIDALGO COUNTY**

\_\_\_\_\_  
**By: Nicholus Muñoz, Vice President**

\_\_\_\_\_  
**By: Richard F. Cortez, County Judge**

**ATTEST:**

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

**LIST OF ATTACHMENTS**

- Exhibit A – Services to be Provided by the Owner
- Exhibit B – Services to be Provided by the Construction Manager
- Exhibit C – Work Schedule
- Exhibit D – Fee Schedule

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 Construction Managers of, \_\_\_\_\_, Texas, hereinafter called "**Construction Manager**".

WITNESSETH

**WHEREAS**, the **Owner** and the **Construction Manager** executed the **Agreement** on the \_\_\_\_ day of \_\_\_\_\_ 2018 concerning Construction Management 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 **Construction Manager** 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.

**EXHIBIT "F"**  
**SUPPLEMENTAL AGREEMENT FORM**

**IN WITNESS WHEREOF**, the Construction Manager and the Owner have caused this Supplemental Agreement to the Agreement for Professional Services to be executed as of the \_\_\_\_\_ day of \_\_\_\_\_, 2018.

**THE CONSTRUCTION MANAGER:  
CONSTRUCTION MANAGER**

**BY:** \_\_\_\_\_  
**Nicholus Muñoz, Vice President**

**THE OWNER:  
HIDALGO COUNTY**

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

LIST OF ATTACHMENTS  
(as required)

SAMPLE



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

1/7/2020

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 have ADDITIONAL INSURED provisions or 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).

<b>PRODUCER</b> The Risk Specialty Group, LLC 4801 Woodway Dr. Suite 300E Houston TX 77056	<b>CONTACT NAME:</b> Candi Carpenter <b>PHONE (A/C. No. Ext):</b> 713-552-1900 <b>E-MAIL ADDRESS:</b> ccarpenter@riskspecialtygroup.com		<b>FAX (A/C. No.):</b> 713-513-5411
	<b>INSURER(S) AFFORDING COVERAGE</b>		
<b>INSURED</b> B2Z Engineering, LLC P.O. Box 2724 McAllen TX 78502	B2ZENGI-01	INSURER A :	Travelers Indemnity Co America 25666
		INSURER B :	Travelers Property Casualty In 25674
		INSURER C :	The Travelers Indemnity Compan 25658
		INSURER D :	Hudson Insurance Company 25054
		INSURER E :	
	INSURER F :		

**COVERAGES**

CERTIFICATE NUMBER: 505258812

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.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER:			6807N737635	7/10/2019	7/10/2020	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY			BA7N742910	7/10/2019	7/10/2020	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
C	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$			CUP1P237416	10/2/2019	7/10/2020	EACH OCCURRENCE \$ 2,000,000 AGGREGATE \$ 2,000,000 \$
B	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	UB7N741163	7/10/2019	7/10/2020	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
D	Professional Liability including Pollution Liability (claims made)			PRB0619110094	1/17/2020	1/17/2021	Each Claim 2,000,000 Aggregate 2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

**CERTIFICATE HOLDER****CANCELLATION**

Hidalgo County  
 2812 S Business Hwy 281  
 Edinburg 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

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