

identified in **EXHIBIT "B"**- Services to Provided by the Engineer, 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 **Engineer**, as more particularly identified in **EXHIBIT "B"**, attached hereto.

2.3 Schedule of Work. The **Engineer** 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 **Engineer** shall proceed with the work outlined under Article 2 hereof.

3.1 Termination Date. This Agreement shall terminate on December 31, 2023 or upon completion of projects (hereinafter referred to as the "**Termination Date**"), unless extended by written supplemental agreement, as provided in Article 8 hereof, duly executed by the **Engineer** 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 **Engineer** for work performed or costs incurred by the **Engineer** prior to the date authorized by the **Owner** for the **Engineer** to begin work, during periods when work is suspended, or subsequent to the **Termination Date**.

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

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 **Engineer** 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 **Engineer**. 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 **Engineer** and the **Owner**.

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

If the **Engineer** defaults in the performance of this Agreement or if the **Owner** terminates this Agreement for fault on the part of the **Engineer**, the **Owner** will give consideration to payment of an amount in settlement to include: the actual costs incurred by the **Engineer** 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 **Engineer**, 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 **Engineer** 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 **Engineer** shall, from time to time during the progress of the work, confer with the **Owner**. The **Engineer** 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 **Engineer's** services and work.

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

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

5.1 Basic Services. For and in consideration of the **Services** to be rendered by the **Engineer**, as identified in Article 2 and more particularly identified in **EXHIBIT "B"**, attached hereto, the maximum amount payable by the **Owner** to the **Engineer** for **Services**, subject to adjustment in accordance with Article 6.1 herein, will be provided in each work authorization issued. Payments to the **Engineer** for **Services** shall be made by the **Owner**, upon presentation by the **Engineer** of the monthly **Request for Payment**, in accordance with the terms and provisions of Article 6 herein.

5.2 Special Services. Those services that may be required to provided by the **Engineer** as **Special Services** are set forth below and more particularly described in **EXHIBIT "B"**, attached hereto. For and in consideration of these **Special Services** rendered as required by the **Engineer**, the **Owner** shall pay the **Engineer** 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 ENGINEER, INSPECTOR** Actual performance of services of project site engineer, resident engineer and/or inspector, if required by **Owner**.
2. **DOCUMENT COPIES** Actual performance and/or providing of additional copies (over 10) of report; additional copies (over 10) of plans (contract drawings), specifications and estimates (PS&E); additional copies (over 10) of bidding documents: additional copies (over 10) of as-built drawings.
3. **EXTRA TRAVEL** Extra travel required of **Engineer** and authorized by **Owner** to points outside of Hidalgo County.
4. **EXPERT WITNESS** Assistance to the **Owner** as expert witness in any litigation with third parties, arising from the development or construction of the **Project**.
5. **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 **Engineer** 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 **Engineer** 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 **Engineer** 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 **Engineer** shall submit to the **Owner** for approval a **Request for Payment**. Payment of the lump sum fee for each **Work Authorization** identified in the **Request for Payment** will be in proportion to the percent completion of the work tasks identified in such **Work Authorizations** together with a detailed breakdown of the amount and the sum of all prior payments. The **Owner** shall review each such **Request for Payment** and may make such exceptions as the **Owner** reasonably deems necessary or appropriate under the circumstances then existing. About ten (10) working days after the Commissioners Court of the **Owner** meets approving such payment, the **Owner** shall make payment to the **Engineer** 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 **Engineer** by the **Owner** for the **Project** or such portions of the project shall be only the amounts paid the **Engineer** 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 **Engineer** shall submit a final request for payment (“**Final Request for Payment**”) which shall set forth all amounts due and remaining unpaid to the **Engineer** and upon approval thereof by the **Owner**, the **Owner** shall pay to the **Engineer** 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 **Engineer** delivers to the **Owner** an affidavit that so far as the **Engineer** has knowledge or information any and all amounts due for materials and services over which the **Engineer** has control have been paid.

6.3 Qualification on Obligations to Pay. Any provision hereof to the contrary notwithstanding, the **Owner** shall not be obligated to make any payment (whether a payment under Article 6.1 hereof or **Final Payment**) to the **Engineer** hereunder if any one or more of the following conditions precedent exist:

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

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

6.5 The **Engineer** shall promptly pay all bills for labor and material performed and furnished by others in connection with the performance of the **Engineer's** services.

6.6 Waiver. The making of the **Final Payment** shall constitute a waiver of all claims by the **Owner** except those arising from (1) faulty or defective services of the **Engineer** appearing after completion of the **Project**. (2) failure of the **Engineer's** services to comply with the requirements of this Agreement or any contracts or Agreements related to the **Project**, or (3) terms of any special warranties required by this Agreement or provided at law or in equity. The acceptance of **Final Payment** shall constitute a waiver of all claims by the **Engineer** except those previously made in writing and identified by the **Engineer** as unsettled at the time of the **Final Request for Payment**.

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

The estimated cost proposal for each **Work Authorization**, developed by the **Engineer** and approved by the **Owner** shall be used by the **Owner** to appropriate a purchase order for the **Work Authorization**. Each executed **Work Authorization** shall become a part of this **Agreement**. Upon satisfactory completion of the **Work Authorization**, the **Engineer** 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 **Engineer** 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 **Engineer** and the **Owner**. The **Engineer** 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 **Engineer** 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 **Engineer**, 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 **Engineer**, and/or (3) for

any other reason agreeable to the **Owner** and the **Engineer**. All supplemental agreements will be developed in the form identified in **EXHIBIT "F" - Supplemental Agreement Form**, attached hereto and made a part of this Agreement, and incorporated herein by reference as "**Supplemental Agreement**".

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

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

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

10.1 Preliminary Work. The **Engineer** 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 engineering principles.

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

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

ARTICLE 11. Ownership and Release of Documents.

11.1 Ownership of Documents. Original drawings and specifications are the property of the **Engineer** however the **Project** is the property of the **Owner**, and the **Engineer** may not use the drawings and specifications thereof for any purpose not relating to the **Project** with the **Owner's** consent. The **Owner** shall be furnished with such reproductions of drawings and specifications as the **Owner** may reasonably require. Upon completion of the work or any earlier termination of this Agreement under Article 3.4 hereof, the **Engineer** will revise drawings to reflect changes made during construction and will promptly furnish the **Owner** with one complete set of reproducible record prints. Prints shall be furnished by the **Engineer**, as an additional service, at any other time requested by **Owner**. All such reproductions shall be the property of the **Owner** who may use them without the **Engineer's** permission for any proper purpose relating to the **Project**, including but not limited to additions to or completion of the **Project**. Any additions or revisions by the **Owner** to a drawing signed, sealed, and dated by a registered professional

engineer, shall be made in accordance with the Texas Engineering practice Act and the Rules of the State Board of Registration for Professional Engineers.

All documents furnished to the **Engineer** by the **Owner** shall be delivered to the **Owner** upon completion or termination of this Agreement. The **Engineer**, at the **Engineer's** own expense, may retain copies of such documents or any other data under this Agreement.

11.2 Release of Documents or Information. Release of information to the public or others regarding the **Project** will be accordance with the Texas Public Information Act.

ARTICLE 12. Discounts, Rebates, Refunds. In connection with procurement services rendered by the **Engineer**, if procurement services are required of the **Engineer** hereunder, all discounts, rebates and refunds shall accrue to the **Owner**. For some purchases, the **Engineer** 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 **Engineer** shall promptly notify the **Owner** so that a course of action may be mutually agreed upon by the **Owner** and the **Engineer**.

ARTICLE 13. Records, Accounting, Inspection. The **Engineer** shall keep full and detailed records and accounts in a manner approved by the **Owner**. The **Engineer** shall afford the **Owner's** authorized personnel and independent auditors, if any, full access to the work performed by the **Engineer** regarding the **Project** and to all of the **Engineer's** books, records, correspondence, instructions, drawings, receipts, vouchers and other documents relating to such work under this Agreement and the **Engineer** shall preserve all such records for three (3) years after final payment. The **Engineer** 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 **Engineer** shall not assign, subcontract or transfer the **Engineer's** interest in this Agreement without the prior written consent

of the **Owner**. The **Engineer** 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 **Engineer** of any responsibilities under this Agreement.

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

ARTICLE 16. Confidential Information, Inventions and Other Restrictions.

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

17.1 Engineer's Seal. The **Engineer** shall assign a responsible engineer or engineers licensed to practice in the State of Texas, who shall sign, seal and date all appropriate engineering submissions to the **Owner** in accordance with the Texas Engineering Practice Act and the Rules of the State Board of Registration for Professional Engineers.

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

The **Engineer's** responsibility for all questions arising from design errors and/or omissions will be determined by the **Owner** or a designee appointed by the **Owner**. The **Engineer** will not be

relieved of the responsibility for subsequent correction of any such errors or omissions or for clarification of any ambiguities until after the construction phase of the **Project** has been completed.

17.3 Warranties.

(a) The **Engineer** warrants that engineering design work performed by the **Engineer** hereunder shall be in accordance with sound engineering design practices and in conformance with applicable code and standards established for such work.

(b) Notwithstanding anything to the contrary contained in this Agreement, the **Owner** and the **Engineer** agree and acknowledge that the **Owner** is entering into this Agreement in reliance on the **Engineer's** experience and abilities with respect to performing the **Engineer's** services hereunder. The **Engineer** accepts the relationship of trust and confidence established between it and the **Owner** by this Agreement. The **Engineer** covenants with the **Owner** to use the **Engineer's** best efforts, skill, judgement and abilities to design the **Project** and to further the interests of the **Owner** in accordance with the **Owner's** requirements and procedures, in accordance with all professional standards, and in compliance with all applicable national, federal, state, county and municipal laws, regulations, codes, ordinances, orders and with those of any other body having jurisdiction. If the development of plans, specifications and estimates (hereinafter referred to as "**PS&E**") are identified in this Agreement under Article 2 hereof or **EXHIBIT "B"**, attached hereto, as part of the services to be provided by the **Engineer** for the **Project**, prior to the commencement of construction, the **Engineer** shall certify in writing to the **Owner** that the **PS&E** for the **Project**, and the improvements when built in accordance therewith, conform to all applicable governmental regulations, statutes and ordinances then in effect. The **Engineer** represents covenants and agrees that there are no obligations, commitments or impediments of any kind that will limit or prevent performance of the **Engineer's** services.

(c) The **Engineer** represents, covenants and agrees that all of **Engineer's** services to be furnished by the **Engineer** 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 engineers of similar experience, knowledge, skill and ability engaged in engineering practice throughout Texas under the same or similar circumstances involving the design and construction of **Project**.

(d) The **Engineer** represents, covenants and agrees that the **Engineer's** special talent, training and experience cause the **Engineer** to be the prime professional on the **Project**; that because of such talent and training, the **Engineer** envisions the construction of the **Project** in its entirety and possesses the special skills which enable the **Engineer** to recognize dangerous conditions that a reasonable, prudent engineer having such special skills could anticipate may arise from the proper use of the **Project** after acceptance by **Owner**; and that the **Engineer** recognizes that any commissioners, elected officials, employees and agents of the **Owner**, plus residents and owners of property within the area affected by the **Project** are within a class of foreseeable persons who will be relying on the project being designed in a professional and safe manner.

(e) If the development of **PS&E** is identified in this Agreement under Article 2 hereof or **EXHIBIT "B"**, attached hereto, as part of the services to be provided by the **Engineer** for the **Project**, the **Engineer** represents, covenants and agrees that the **PS&E** of the **Project** will be accurate and free from any material errors. The **Engineer** additionally represents, covenants and agrees to the following: that the design of the **Project** will conform to its foreseeable use as a **Project** with all the amenities as set forth in any **PS&E** developed by the **Engineer** for the **Project**; that the result of such **PS&E**, if built in accordance therewith, will be suitable for purposes for which the **Project** is designed; and the **Project** will be inspected in a workmanlike, professional manner

and will be suitable for the **Project's** intended purpose. The **Engineer's** responsibilities as set forth herein shall at no time be in any way diminished by reason of any approval by the **Owner** of any **PS&E** developed by the **Engineer** for the **Project**, nor shall the **Engineer** be released from any liability by reason of such approval by the **Owner**, it being understood that the **Owner** at all times is ultimately relying upon the **Engineer's** skill and knowledge in preparing such **PS&E**.

(f) In connection with the **Engineer's** performance of procurement services hereunder, if any, the **Engineer** use its best efforts to obtain from all vendors of equipment and materials, fullest possible warranties against defective materials and workmanship for the benefit of the **Owner**.

ARTICLE 18. Engineer's Resources. The **Engineer** shall furnish and maintain, at the **Engineer'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 **Engineer** shall provide a manager (**Project Manager**) for the **Project** that is a registered professional engineer in the State of Texas or an accredited Project Management Professional (PMP) by the Project Management Institute (PMI). The **Project** manager shall have such knowledge and experience as will enable that **Project Manager** during the course of the **Project** without prior consent of the **Owner**. If, due to situations beyond the control of the **Engineer**, the **Engineer** must change the **Project Manager** prior to the completion and acceptance of the **Project**, the **Engineer** will submit a request to change the **Project Manager** to the **Owner** for approval.

18.2 Employees of the Engineer. All employees of the **Engineer** 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 **Engineer** 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 **Engineer** certifies that the **Engineer** presently has employed sufficient and qualified personnel and will maintain sufficient and qualified personnel for performance of the services under this Agreement.

18.3 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 **Engineer** 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 **Engineer** shall provide the **Owner** with documents and information in accordance with the special requirement outlined in **EXHIBIT "B"** attached hereto.

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

- (1) **Workers' Compensation** endorsed with a waiver of subrogation in favor of the **Owner** in accordance with the statutory obligations imposed by Worker's Compensation or Occupational Disease laws under the Texas Workers' Compensation Law ("**Statutory Texas**")

- (2) **Commercial General Liability**, endorsed with the **Owner** as an additional insured and endorsed with a waiver of subrogation in favor of the **Owner all to the extent of the liabilities assumed by the Engineer under Article 19 and Article 20** herein, in limits of liability not less than one million dollars (**\$1,000,000**) combined single limit each occurrence and in the aggregate for bodily injury and property damage.
- (3) **Texas Business Automobile Policy**, endorsed with the **Owner** as an additional insured and endorsed with a waiver of subrogation in favor of the **Owner all to the extent of the liabilities assumed by the Engineer under Article 19 and Article 20 herein**, in limits of liability not less than two hundred fifty thousand dollars (**\$250,000**) each person for bodily injury, five hundred thousand dollars (**\$500,000**) each occurrence for bodily injury, and one hundred thousand dollars (**\$100,000**) each occurrence for property damage.
- (4) **Professional Liability** in limits of **\$1,000,000** each claim and aggregate.

The **Engineer** covenants and agrees to maintain an insurance policy in the minimum limits of liability for each of the types of insurance coverage identified above. The **Engineer** shall furnish the **Owner** with a certificate of insurance (**Hidalgo County Certificate of Insurance**) showing the said policy to be in full force and effect during the period of service, identified in Article 3 hereto, for this Agreement. The completed Hidalgo County Certificate of Insurance shall be attached hereto and identified as **EXHIBIT "G"- Hidalgo County Certificate of Insurance**. The **Engineer** will be considered in breach of contract should the **Engineer** 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 **Engineer** 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 **Engineer** 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 **Engineer** shall furnish the **Owner** with satisfactory proof of its compliance therewith.

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

ARTICLE 25. Payment of Franchise Tax. The **Engineer** hereby certifies that the **Engineer** is not delinquent in Texas franchise tax payments, or that the **Engineer** 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 **Engineer** shall be responsible for the settlement of all contractual and administrative issues arising out of any procurement made by the **Engineer** 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>OWNER</u>	<u>ENGINEER</u>
Hidalgo County 100 E. Cano, 2nd Floor Edinburg, Texas 78539	B2Z Engineering, LLC 900 S. Stewart Rd., Ste 4 Mission, Texas 78572

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

ARTICLE 29. Miscellaneous Provisions.

(a) This Agreement constitutes the entire Agreement between the **Engineer** 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 **Engineer** not set forth herein.

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

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

(d) No modification, waiver, termination, discharge or cancellation of this Agreement or of any terms thereof shall impair the **Owner's** right with respect to any liabilities whether or not liquidated of the **Engineer** 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 **Engineer** shall remain an independent contractor and shall have no power nor shall the **Engineer** represent that the **Engineer** has any power to bind the **Owner** or to assume or to create any obligation express or implied on behalf of the **Owner** except as specifically authorized in advance by the **Owner**.

(g) The Agreement shall be construed under the laws of the State of Texas and is performable in Hidalgo County, Texas.

(h) This Agreement may only be amended by a written document executed by the Owner and the **Engineer** as provided by Article 8 herein.

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

WITNESS WHEREOF, the **Engineer** and the **Owner** have caused this **Agreement for Professional Services** to be effective as of the ____ day of _____, 2018.


ENGINEER:
B2Z Engineering, LLC

BY: 
Nicholus Muñoz, Vice President

OWNER:
HIDALGO COUNTY

BY: 
Ramon Garcia, County Judge

ATTEST:


Arturo Guajardo, Jr., County Clerk

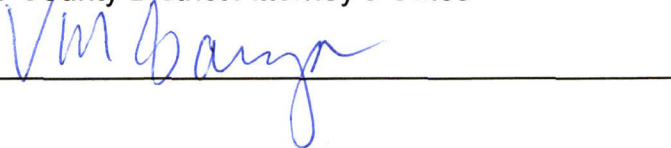


APPROVED BY
COMMISSIONERS' COURT
ON: 11/20/18 

Approved on Commissioners' Court:

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 Engineer
- 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

The following provides an outline of the services to be provided by the **Owner** for the proposed Preliminary Design and Construction Phase Services of the Hidalgo County Sheriff's Office Detention Barracks hereinafter denoted as the **Project**.

GENERAL:

The **Owner** will provide to the **Engineer** the following:

- 1) Provide the authorization to proceed with services through coordination with the project **Engineer**.
- 2) Payment for work performed by the **Engineer** and accepted by the **Owner** in accordance with Article 6 of the Agreement.
- 3) Assistance to the **Engineer**, as necessary, to obtain the required data and information from other local, regional, State and Federal agencies the **Engineer** 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 **Engineer's** request for information and/or required submittals and deliverables, in order for the **Engineer** 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 **Engineer**.

EXHIBIT B

Scope of Services to be provided by the Engineer

SECTION I - PROJECT DESCRIPTION

The services designated herein as “Services provided by the ENGINEER” shall include the performance of all engineering services for the following described facility:

COUNTY/CITY: HIDALGO COUNTY

PROJECT/DESCRIPTION: Preliminary Design & Construction Phase Services of the Hidalgo County Sheriff's Office Detention Barracks (FC102 & FC320)

ENGINEER shall mean B2Z Engineering

STATE shall mean the State of Texas

COUNTY shall mean Hidalgo County

ARCHITECT shall mean Architect of Record

EXHIBIT B

Scope of Services to be provided by the Engineer

SECTION 2 – PRELIMINARY DESIGN VALUES

(Function Code 102)

Preliminary Design Values

The ENGINEER will work with the COUNTY and ARCHITECT to establish basic design concepts, project controls and general scope of Projects.

- 1) Review of existing materials (drawings, programs, maps, budgets, schedules, surveys, project requirements, and TCJS requirements) to familiarize the team with the project and work complete to date.
- 2) Prepare our Project Management Plan and Project Management software to address the needs of the COUNTY and project.
 - a) Identify all project stakeholders and assist the County in development of Steering and Governing Committee's for the project.
 - b) Assist the County in the development of the guiding principles and project imperatives which will become the basis of all future decisions regarding the project.
 - c) Review of the Contractor procurement methodology options with consideration to state and local public procurement regulations.
 - d) Development of risk analysis to identify project risks and suggested mitigation strategies.
 - e) Development of baseline project schedule.
 - f) Development of Communication Plan.
 - g) Development of document control framework.

Uncontrolled Mapping (w/Contours & GIS Info)

The ENGINEER will investigate the existing structures and coordinate with the Owner on establishing the best-fit alignments and mapping proposed geometry for Projects. Preliminary Location Exhibit will be developed.

Preliminary Cost Estimates

The ENGINEER will calculate preliminary construction cost estimates for of the various phases of the Project.

- 1) Compilation of a project budget for the entire project. The new budget will be compared with the existing budget to identify issues for discussion and resolution.

EXHIBIT B

Scope of Services to be provided by the Engineer

Meetings, Coordination & Support for Project Development

The ENGINEER shall provide coordination services and shall assist in meetings and workshops with the COUNTY, ARCHITECT, and all other affected parties. The ENGINEER shall serve as representative for the Owner in coordination items. The ENGINEER shall coordinate with the Owner's staff on all Project related items.

- 1) Coordinate with the Hidalgo County Sheriff's Office department's for coordination of all systems for the project.
 - a. Maintenance
 - b. IT
 - c. Staffing
 - d. Intake
 - e. Kitchen
 - f. Infirmary
 - g. Laundry
 - h. Central Communication
 - i. State Compliance
 - j. Fire Marshal
- 2) Consultation with the County consultant contracts (Architect & Design Team, Geotechnical, Environmental, Surveyor, Commissioning & Inspections, etc.).
- 3) Assistance to the Planning Department as needed to facilitate any required master plan amendments, zoning changes, permitting requirements, and procurement restrictions.
- 4) Meet with Utility companies to understand specific requirements and risks. Coordinate the requirements with design team.
- 5) Conduct design meetings once a month to discuss progress, review designs and documents, and provide direction.
- 6) Report to the Governing and Steering Committees on progress and decisions needing to be made.
- 7) Coordinate a design review at 30%, 60%, 90% to review:
 - a. Constructability
 - b. Program adherence
 - c. Budget Adherence
 - d. Building code
 - e. ADA

EXHIBIT B

Scope of Services to be provided by the Engineer

- f. Security
 - g. Texas Commission on Jail Standard
- 8) Coordinate with the Information Management Services Department for the inclusion of specific requirements for the phone, data, and communication systems.
 - 9) Coordinate with the Facilities Management Division for the input and design review of building systems and equipment.
 - 10) Coordinate with Parks Maintenance Division for input and design review of the site, landscaping, and irrigation systems.
 - 11) Implement and maintain communication tools identified in the program management plan.
 - 12) Provide and maintain PMIS software as the central filing system for project official documents information and communications records. This will be turned over to the County at the end of the project as a record of all project files.
 - 13) Document and record meeting minutes for all design meetings, pre-construction meetings, construction meetings and post-construction meetings. The minutes will be the official project meeting record.
 - 14) Create a monthly report that will provide the County with the following:
 - a. Executive Summary
 - b. Discussion of major activities on the project
 - c. Outstanding issues
 - d. Budget changes (detailed description of change orders)
 - e. Schedule and related issues
 - 15) Assist the County in the preparation of formal contract documents for the award of the architect's contract.

EXHIBIT B

Scope of Services to be provided by the Engineer

SECTION 12 - CONSTRUCTION PHASE SERVICES

(Function Code 320)

Construction Management Services:

The ENGINEER will provide support services for and during the planning/design/construction phase of the Project, or portions of the Project approved by the COUNTY. Specific services for CONSTRUCTION MANAGEMENT AND SUPPORT by the ENGINEER will include the following:

Construction Bidding:

- 1) The ENGINEER will prepare and assist the COUNTY with the needed procurement package based on a traditional or alternative delivery method (RFB, CSP, CMAR) selected for the various aspects of this project.
 - a) Preparation of documents for contractor selection to include:
 1. Request for Qualifications/Proposals
 2. Contract language to promote collaboration and limit liability
 3. Design guidelines and imperatives (project scope)
 4. Incentives
 5. Schedule
 6. Budget
 - b) Contractor Outreach
 - c) Pre-qualifying of Contractors
 - d) Assist in the preparation of advertisements and postings in publications and the County website
 - e) Conduct any pre-selection meetings with the contractors at large
 - f) Respond to all inquiries and questions in writing
- 2) The ENGINEER will assist the COUNTY on the tabulation of bids, make recommendations to the Owner as to the proper action on all bid proposals received.
- 3) Assist the County in the preparation of formal contract documents for the award of the construction contract.

Construction Contract Administration and Oversight:

- 1) In general, the ENGINEER will provide the management and engineering support/data required for consultation and advisement to the COUNTY and act as the COUNTY's representative as it relates to the various aspects of design, as well as construction as provided in the General Condition of the Construction Contract.
- 2) The ENGINEER will coordinate and conduct a pre-construction conference.

EXHIBIT B

Scope of Services to be provided by the Engineer

- 3) Defects and Deficiencies. The ENGINEER will use his best efforts to protect the COUNTY against defects and deficiencies in the work of the ARCHITECT and Contractor. The ENGINEER will promptly notify the COUNTY of any such defect or deficiency and take all steps possible to require the ARCHITECT or Contractor to correct the defect or deficiency.
- 4) Contractor Payment. The ENGINEER will review monthly pay applications as submitted by the Contractor and will coordinate with the Architect for the preparation of the monthly and final estimates for payment to the Contractor.
- 5) The ENGINEER will provide Project site inspection of the authorized construction contract as follows:
 - a) Project Manager. The ENGINEER will provide visits by the Project Manager or a competent representative of the ENGINEER to the site of construction for the purpose of monitoring the Contractor's progress and conformance to the construction contract plans and specifications.
 - b) Resident Engineer and/or Construction Inspector(s). The ENGINEER will furnish the services of a Resident Engineer and/or Construction Inspector(s) for on the site inspection construction to monitor/inspect the Contractor's daily progress and conformance to the contract plans and specifications.

Miscellaneous Technical Activities:

- 1) The ENGINEER will coordinate various aspects of the project development component as directed by the COUNTY.
- 2) The ENGINEER will act as an agent of the COUNTY when dealing with the ARCHITECT hired by the COUNTY.
- 3) The ENGINEER will coordinate with the COUNTY on a bi-weekly basis to ensure that the project is meeting all defined project goals.
- 4) The ENGINEER will perform other various coordination tasks as directed by the COUNTY to push the project through various aspects of project development.
 - a) Administer the construction contract.
 - b) Assist the contractor to confirm that all permits have been obtained to maintain the schedule.
 - c) Track construction progress and compliance with the construction schedule.
 - d) Track and control project construction contingency funds
 - e) Facilitate the integration of the various County departments, government agencies and public and private utilities into the process as needed to maintain the schedule.
 - f) Daily project oversight to document and photograph the activity for a permanent record to be stored in PMIS.

EXHIBIT B

Scope of Services to be provided by the Engineer

- i. Field reports will be documented in PMIS and will include but not limited to:
 - 1. Weather
 - 2. Work logs with man hour quantities.
 - 3. General Notes, Issues and Concerns
 - 4. Site Safety Observations
 - 5. Quality Control Observations
 - 6. Delays
 - 7. Equipment on site
- g) Receive, review and direct all project documentation. This includes submittals, shop drawings, product data, samples, CMT reports, RFI's and any other required documentation for compliance with the Owner's design guidelines. All documentation will be stored in PMIS and will be turned over to County at the conclusion of project.
- h) Review Contract Change Directives (CCD's) and Proposed Change Orders (PCO's). Prepare and process Change Orders (CO's) as needed.
- i) Review and verify all Contractor pay requests.
- j) Verify stored material with architect prior to approval of payment.
- k) Participate in the creation of the final punch list with the architect during the architect's evaluation of substantial completion. Once the certificate of substantial completion is issued, we'll monitor the completion of the punch list work. The project manager will participate in the architect's final inspection and acceptance of the work.
- l) Act as liaison and central point of communication between contractor, architect, the County and other affected stakeholders.
- m) Conduct bi-weekly OAC (owner, architect, and contractor) construction progress meetings.
- n) Interact daily with the contractor to resolve potential problems or issues before they turn into change orders or cause delays
- o) Obtain and review record drawings from the architect.
- p) Conduct a 6-month warranty walk through with the contractor, noting required repairs and warranty issues. Follow up with contractor to insure completion of all open items.
- q) Conduct an 11-month warranty walk through with the contractor, noting required repairs and warranty issues. Following up with contractor to insure completion of all open items.

EXHIBIT B

Scope of Services to be provided by the Engineer

CONSTRUCTION MATERIAL TESTING:

The ENGINEER will provide the County with construction material testing services for the Project. The services to be provided include sampling and testing of all construction materials as required by the project plans and specifications. The construction material testing includes, but is not limited to the following:

- 1) Sampling and laboratory testing of soils and base materials proposed for use in the construction of Project to determine compliance of these materials with project plans and specifications.
- 2) Field density testing of soils and base materials to ensure proper compaction as required by project plans and specifications.
- 3) Field sampling and testing of fresh concrete, and laboratory testing of hardened concrete to determine compliance with project plans and specifications.
- 4) Field compaction testing of asphalt to ensure proper compaction during lay down operations.
- 5) Field inspection, sampling and laboratory testing of asphalt materials to determine their material properties and their compliance with project plans and specifications.
- 6) Any additional laboratory testing as required/requested by the County and the project plans and specifications.
- 7) Providing accurate and timely reports to the Contractor and the County and all/other recipients as designated by the County.

EXHIBIT "C"
WORK SCHEDULE

The Work Schedule will be specific to each Work Authorization completed under the Contract for this **Project**. The **Engineer** will provide a Work Schedule as an attachment/exhibit to each Work Authorization. Work will need to be completed in accordance with Article 3 and 4 of this Contract (Article 3 – Period of Service, Article 4 – Progress and Coordination).

Exhibit D ~ Contract Rates



Labor/Staff Classification	Hourly Base Rate	Contract Rate FY 18	Contract Rate** FY 19	Contract Rate** FY 20
Senior Project Manager (PE/PMP)	\$58.00	\$190.24	\$195.95	\$201.83
Construction Manager	\$55.00	\$180.40	\$185.81	\$191.39
Environmental Specialist	\$42.00	\$137.76	\$141.89	\$146.15
Design Engineer	\$41.00	\$134.48	\$138.51	\$142.67
Deputy Project Manager	\$38.00	\$124.64	\$128.38	\$132.23
Senior Engineering Tech (Lab Manager)	\$38.00	\$124.64	\$128.38	\$132.23
Construction Inspector	\$26.00	\$85.28	\$87.84	\$90.47
Construction Record Keeper	\$25.00	\$82.00	\$84.46	\$86.99
Unmanned Aircraft System (UAS) Pilot	\$25.00	\$82.00	\$84.46	\$86.99
Laboratory Field Technician	\$24.00	\$78.72	\$81.08	\$83.51
Engineer Technician	\$23.00	\$75.44	\$77.70	\$80.03
CADD Operator	\$21.00	\$68.88	\$70.95	\$73.07
Admin/Clerical	\$20.00	\$65.60	\$67.57	\$69.60
Overhead Rate*: 192.81% 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 on a FY basis.			
* = Overhead Rate is based on the latest TxDOT Approved Rate as of 8-14-18 ** = Contract Rate Increase of 3% per FY				
Other Direct Expenses:	Cost			
Mileage	\$0.55/mile			
Drone Flight	\$250/hour			
Lodging	\$90/night			
Per Diem	\$36/day			
Project Management Information Software	\$350/month			
8 1/2" X 11" copies	\$1.00/sheet			
11" X 17" copies	\$1.50/sheet			

EXHIBIT "E"

Sample Work Authorization

HIDALGO COUNTY Professional Engineering Services Contract # C-18-273-11-20 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 engineers of Mission, Texas, hereinafter called "**Engineer**".

PART 1. SCOPE OF WORK

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

PART 6. RESPONSIBILITIES AND OBLIGATIONS

This Authorization does not waive the parties' responsibilities and obligations provided under the **Agreement**.

EXHIBIT "E"

Sample Work Authorization

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 ENGINEER:
B2Z Engineering, LLC

THE OWNER:
HIDALGO COUNTY

By: Nicholus Muñoz, Vice President

By: Ramon Garcia, County Judge

ATTEST:

By: Arturo Guajardo, Jr., County Clerk

LIST OF ATTACHMENTS

- Location Map
- Exhibit A – Services to be Provided by the Owner
- Exhibit B – Services to be Provided by the Engineer
- Exhibit C – Work Schedule
- Exhibit D – Fee Schedule

EXHIBIT "E"

Sample Work Authorization

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

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B2Z Engineering, LLC

THE OWNER:
HIDALGO COUNTY

By: Nicholus Muñoz, Vice President

By: Ramon Garcia, County Judge

ATTEST:

By: Arturo Guajardo, Jr., County Clerk

LIST OF ATTACHMENTS

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EXHIBIT "F"

Supplemental Agreement Form

IN WITNESS WHEREOF, the Engineer and the Owner have caused this Supplemental Agreement to the Agreement for Professional Services to be executed as of the _____ day of _____, 2018.

**THE ENGINEER:
ENGINEER**

BY: _____

**THE OWNER:
HIDALGO COUNTY**

BY: _____
Ramon Garcia, County Judge

LIST OF ATTACHMENTS
(as required)

SAMPLE

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY CERTIFICATION OF FILING

Certificate Number:
2018-426561

Date Filed:
11/16/2018

Date Acknowledged:

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

B2Z Engineering, LLC
Mission, TX United States

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

Hidalgo County

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

C-18-273-11-20
Hidalgo County Pct#2 - Professional Engineering Services "Preliminary Design & Construction Phase Services for the Hidalgo County Sheriff's Office Detention Barracks"

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	Gonzalez, Aisha	Mission, TX United States	X	

5 Check only if there is NO Interested Party.

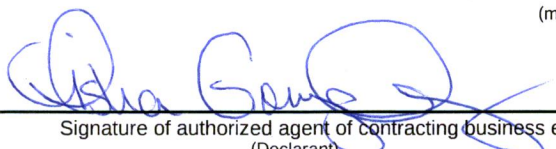
6 UNSWORN DECLARATION

My name is Aisha Gonzalez, and my date of birth is 01/23/79.

My address is 900 S. Stewart Rd., Ste. 4, Mission, TX, 78572, USA.
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Hidalgo County, State of Texas, on the 16 day of November 2018.
(month) (year)



Signature of authorized agent of contracting business entity
(Declarant)

AI-67695
CC - REGULAR

Purchasing Department 25. I. 1.
Sheriff's Office

Meeting Date: 11/20/2018

Submitted For: Marty Salazar, PURCHASING DEPT.

Submitted By: Elena Gomez, PURCHASING DEPT.

Department: PURCHASING DEPT.

Information

CAPTION

A. Requesting approval of final negotiated Professional Eng. Services Agreement with B2Z Engineering as it relates to Project 2018-273 "Design/Construction of Detention Barracks". Approved for negotiations by HCCC on 10/23/18 AI-67304.

B. Requesting approval of Work Authorization No. 1 in the amount of \$ 74,265.52 for the Professional Eng. Services on the "Design/Construction of Detention Barracks"

BACKGROUND

Approved for negotiations by HCCC on 10/23/2018 AI # 67304

Fiscal Impact

CALENDAR YEAR: 2018

ACCT. #: 8-1353-423-21-280-096-0-730

FUNDS AVAILABLE Y/N?: Y

MATCHING FUNDS Y/N?:

BUDGETARY IMPACT:

Funds available as of 11-16-18.

Attachments

HB 1295 & Acknowledgement

Work Auth. #1

contract

LEGAL

Form Review

Inbox	Reviewed By	Date
Purchasing - Internal	Marty Salazar	11/16/2018 04:38 PM
Budget & Management	Veronica Ortiz	11/16/2018 04:39 PM
Ivan Cantu	Ivan Cantu	11/16/2018 04:46 PM
Final Approval	Monica Salinas	11/16/2018 05:18 PM
Form Started By: Elena Gomez		Started On: 11/15/2018 03:11 PM
Final Approval Date: 11/16/2018		

Zimbra

erika.zamora@co.hidalgo.tx.us

Re: AI#67695 Sheriff's Office Detention Barracks Project

From : Victor Garza <victor.garza@da.co.hidalgo.tx.us> Mon, Nov 19, 2018 04:55 PM

Subject : Re: AI#67695 Sheriff's Office Detention Barracks Project

To : Erika Zamora <erika.zamora@co.hidalgo.tx.us>, Josephine Ramirez <josephine.ramirez@da.co.hidalgo.tx.us>

Cc : Monica Badillo <monica.salinas@co.hidalgo.tx.us>, Rocio Villarreal <rocio.villarreal@co.hidalgo.tx.us>, Elena Gomez <elena.gomez@co.hidalgo.tx.us>, Linda Fong <Linda.Fong@auditor.co.hidalgo.tx.us>, Letty Chavez <letty.chavez@auditor.co.hidalgo.tx.us>, Dina Trevino <dina.trevino@co.hidalgo.tx.us>

Ms. Zamora,

Our office has reviewed the proposed Agreement for Professional Service between the County of Hidalgo and B2Z Engineering LLC, and at this time approve as to the form of the agreement.

Please let our office know if you have any questions or concerns.

Respectfully,

Victor M. Garza
Assistant District Attorney
Civil Division
Office of the Criminal District Attorney
Hidalgo County, Texas
100 East Cano Street
Edinburg, Texas 78539

(956) 292-7609 EXT. 8185
(956) 292-7619 FAX
victor.garza@da.co.hidalgo.tx.us

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EXHIBIT "E"

Sample Work Authorization

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

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B2Z Engineering, LLC

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By: Ramon Garcia, County Judge

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