

HCRMA FORM ENGINEERING AGREEMENT

Subject to modification

**HIDALGO COUNTY REGIONAL MOBILITY AUTHORITY
PROFESSIONAL ENGINEERING/DESIGN SERVICES**

THIS CONTRACT FOR PROFESSIONAL ENGINEERING/DESIGN SERVICES is made by and between the Hidalgo County Regional Mobility Authority (the “Authority”) and _____ herein after called “Engineer” for the purpose of contracting for engineering services (the “Agreement”).

WITNESSETH

WHEREAS, Government Code, Chapter 2254, Subchapter A, “Professional Services Procurement Act” provides for the procurement of professional services of engineers; and

WHEREAS, in compliance with the Professional Services Procurement Act and all federal requirements including those described in 23 CFR Part 172, the Authority procured professional engineering/design services (the “Procurement”) for the Hidalgo County Trade Corridor Connector (the “TCC” or the “Project”) and any segments thereunder;

WHEREAS, pursuant to the Procurement and the Board’s ranking of respondents thereto, the Board finds it to be in the best interest of the Authority to engage the Engineer to design, including providing plans, specifications, and construction estimates for that certain segment of the TCC, to wit: _____
_____ (the “Project”);

NOW, THEREFORE, the Authority and the Engineer, in consideration of the mutual covenants and agreements herein contained, do hereby mutually agree as follows:

AGREEMENT

ARTICLE I

SCOPE OF SERVICES TO BE PROVIDED BY THE ENGINEER

1.1 The Engineer shall timely perform those engineering services for the fulfillment of the Agreement. All work shall be subject to review and approval by the Authority, the Texas Department of Transportation, and the Federal Highway Administration. Notwithstanding anything to the contrary in this agreement or in any other contract document relating to the project, in performing its work under this contract, Engineer shall perform its services to the standard of care of a reasonable engineer that is performing the same or similar work, at the same time and locality and under the same or similar conditions faced by Engineer.

1.2 The Engineer shall prepare a schedule of work, identified as Attachment B – Detailed Scope of Services and a schedule of work, identified as Attachment D – Work

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Schedule, attached hereto and made a part of this Agreement. The Detailed Scope of Services and the Work Schedule shall contain a complete schedule by task such that the Engineer's Scope of Services under this Agreement can be accomplished within the specified time and contract cost. The Work Schedule shall identify the task, the total maximum dollar amount payable for each task, and the time allotted to complete the job by the date or working days.

1.3 Attachment C – Fee Schedule shall identify the hourly rates for each job title, total number of hours for each job title, and the maximum dollar amount payable for each job title.

ARTICLE II AGREEMENT PERIOD

After execution of this Agreement, the Engineer shall not proceed with the work until authorized in writing by the Authority to proceed. This Agreement shall terminate at the close of business on the "Termination Date", as defined in Article XVI, unless extended by a supplement agreement duly executed by the Engineer and the Authority prior to the date of termination. Any work performed or cost incurred after the Termination Date, shall be ineligible for reimbursement.

ARTICLE III COMPENSATION AND METHOD OF PAYMENT

3.1 The maximum amount payable under this Agreement is \$_____, unless modified as provided hereunder. All payments will be made in accordance with the hourly rates for each job title established in Attachment C.

3.2 The Engineer shall prepare and submit to the Authority an invoice and progress report stating the percent completion of the work accomplished during the billing period, including hours worked. The invoice and progress report shall contain sufficient detail such that the billing can be reviewed for compliance with both the Work Schedule and Fee Schedule.

3.3 The Authority reserves the right to withhold payment pending verification of satisfactory work.

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

ARTICLE IV WORK AUTHORIZATIONS

4.1 The Authority will issue work authorizations, in the form identified and attached hereto as Attachment F – Work Authorization, to authorize the Engineer to provide one

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or more tasks. The amount payable for a work authorization shall be supported by the estimated cost of each task as described in the Work Authorization. The Work Authorization will not waive the Authority's or the Engineer's responsibilities and obligations established under this Agreement. The executed Work Authorization shall become part of this Agreement.

4.2 Upon satisfactory completion of the Work Authorization, the Engineer shall submit to the Authority for review and acceptance the deliverables as specified in the executed Work Authorization.

4.3 Work included in a Work Authorization shall not begin until the Authority and the Engineer have signed the Work Authorization. All work must be completed on or before the completion date specified in the Work Authorization. The Engineer shall promptly notify the Authority of any event which will affect completion of the Work Authorization.

4.4 Unless otherwise authorized by the Authority and the Texas Department of Transportation, Work performed under this Agreement shall be developed in accordance with the latest version of the Texas Department of Transportation's manuals.

ARTICLE V PROGRESS

5.1 The Engineer shall, from time to time during the progress of the work, confer with the Authority. The Engineer shall prepare and present such information as may be pertinent and necessary, or as may be requested by the Authority, in order to evaluate the work. Upon request by the Authority, the Engineer shall make presentations to the Authority's Board of Directors.

5.2 All Work produced or approved or otherwise created by the Engineer under this Agreement shall be transmitted to the Authority in the form of photocopy reproduction on a monthly basis and, if requested by the Authority, additionally transmitted to the Texas Department of Transportation each month. The originals of all Work shall remain property of the Authority.

5.3 Should the Authority determine that the progress in production of the work does not satisfy the work schedule, the Authority will review the Work Schedule with the Engineer to determine corrective action needed.

5.4 The Engineer shall promptly advise the Authority in writing of events which have a significant impact on the progress of work, including:

- (1) Problems, delays, or incomplete information which materially affect the ability to attain Agreement objectives, prevent the meeting of time schedules and goals, or preclude the attainment of project work by established deadline; and

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- (2) Favorable developments or events which would enable meeting the Work Schedule sooner than anticipated.

ARTICLE VI SUSPENSION

6.1 The Authority may suspend the work by giving written notice to the Engineer of a minimum of ten (10) days prior to the date of suspension. The ten (10) day notice may be waived if approved in writing by both parties. The work will be reinstated and resumed in full force and effect within ten (10) days of receipt of written notice from the Authority to resume work.

6.2 If the Authority suspends the work, the Termination Date is not affected and the Agreement will terminate on the date specified, unless the Agreement is amended.

ARTICLE VII ADDITIONAL WORK

The Engineer shall not perform any additional work or incur any additional costs prior to the execution, by both parties, of a supplemental agreement. The Authority shall not be responsible for actions by the Engineer or any 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.

ARTICLE VIII CHANGES IN WORK

8.1 If the Authority finds it necessary to request changes to previously satisfactory completed work or parts thereof which involve changes to the original scope of services, the Engineer shall make such revisions if requested and as directed by the Authority. This will be considered additional work and paid for as specified herein.

8.2 The Engineer shall make such revisions to the work to correct errors or omissions appearing therein, when required to do so by the Authority. No additional compensation will be paid for the correction of errors or omissions.

ARTICLE IX SUPPLEMENTAL AGREEMENTS

9.1 The terms of this Agreement may be modified by supplemental agreement if there has been a significant change in the scope, complexity, or character of the service to be performed, or the duration of the work. Additional compensation, if appropriate, shall be identified as provided herein. Any supplemental agreement must be executed by both parties within the Agreement period.

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9.2 No claim for extra work done or materials furnished shall be made by the Engineer until full execution of any supplemental agreement and authorization to proceed is issued by the Authority. The Authority reserves the right to withhold payment pending verification of satisfactory work performed.

ARTICLE X REQUIREMENTS

10.1 In accordance with Department of Transportation, Title 49, Code of Federal Regulations, Part 29 and by signature on this Agreement and the Debarment Certification attached hereto as Attachment I, the Engineer certifies its compliance and the compliance of any subconsultants or subcontractors present or future, by stating that any person associated therewith in the capacity of owner, partner, director, officer, principal investor, project director, manager, auditor, or any position involving federal, state or Authority funds:

- (1) is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;
- (2) does not have a proposed debarment pending;
- (3) has not been suspended debarred, voluntarily excluded, or determined ineligible by an federal agency within the past three years; and
- (4) has not been indicted, convicted, or had a civil judgment rendered against the firm by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three years as specified by Title 49, Code of Federal Regulations, paragraph 29.305(a).

10.2 Where the Engineer or subconsultant is unable to certify to the statement in paragraph 10.1(1) above, the Engineer or subconsultant will be declared ineligible to enter into this Agreement or participate in the Project. Where the Engineer is unable to certify any of the statements in paragraphs 10.1(2), (3), and/or (4) above, the Engineer shall submit a written explanation to the Authority. The certificate or explanation will be considered in connection with the Authority's determination on whether to enter into this Agreement.

10.3 The Engineer shall provide immediate written notice to the Authority if at any time under the term of the Agreement, the Engineer or any subconsultants or subcontractors, present or future, learn that its Debarment Certification has become erroneous by reason of changed circumstance.

10.4 During the performance of this contract, the Engineer agrees as follows:

- (1) ***Compliance with Regulations:*** The Engineer shall comply with Regulations relative to nondiscrimination in Federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated

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by reference and made a part of this contract.

- (2) ***Nondiscrimination:*** The Engineer, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, sex, national origin, age or handicap in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Engineer shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices, when the contract covers a program set forth in Appendix B of the Regulations.
- (3) ***Solicitations for Subcontracts, Including of Material and Equipment:*** In all solicitations either by competitive bidding or negotiation made by the Engineer for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Engineer of the Engineer's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, sex, national origin, age or handicap.
- (4) ***Information and Reports:*** The Engineer shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the Authority or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to the Authority or the Federal Highway Administration, as appropriate, and shall set forth what efforts it has made to obtain the information.
- (5) ***Sanctions for Noncompliance:*** In the event of the Engineer's noncompliance with the nondiscrimination provisions of this contract, the Authority shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
 - (a) withholding of payments to the contractor under the contract until the contractor complies, and/or
 - (b) cancellation, termination or suspension of the contract, in whole or in part.
- (6) ***Incorporation of Provisions:*** The Engineer shall include the provisions of these paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The Engineer shall take

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such action with respect to any subcontract or procurement as the Authority or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that, in the event the Engineer becomes involved in, or is threatened with, litigation with a subcontractor into such litigation to protect the interests of the Authority, and, in addition, the Engineer may request the United States to enter into such litigation to protect the interests of the United States.

10.5 The Engineer agrees to comply with the provisions of Section 1352 of Title 31, U.S. Code as codified in Title 48, Federal Acquisition Regulations, Subpart 3.8 and subpart 52.203.11, prohibiting federal funds from being expended by a recipient or lower-tier subrecipient of a federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence a federal agency or Congress in connection with the award of any federal contract or cooperative agreement. If federal funds are applied to the services under this Agreement, the Engineer and any subconsultants or subcontractors would be required to complete the Certification of Federal Contracts and, if necessary, the Disclosure of Lobbying Activities.

10.6 The Engineer is required to adhere to the commitment made to participation by certified Disadvantage Business Enterprises as agreed to by the Authority during negotiations.

10.7 If the Project is a federal aid project, Engineer is required to comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857 (h)), which prohibit the use under non-exempt federal contract, grants, or loans of facilities included on the EPA List of Violating Facilities. Violations shall be reported to the Federal Highway Administration and to the USEPA Assistant Administrator of Enforcement.

10.8 The Engineer, including all subconsultants, shall comply with all federal, state, and local immigration laws or regulations.

ARTICLE XI PERSONNEL, EQUIPMENT, MATERIAL, AND INFORMATION

11.1 This Agreement is not intended to constitute, create, give up, or otherwise recognize a joint venture agreement or relationship, partnership, or formal business organization of any kind, and the rights and obligations of the parties shall be only those expressly set forth in this Agreement.

11.2 The Engineer shall furnish and maintain, at its own expense, office space for the performance of all services, and adequate and sufficient personnel and equipment to perform the services all required. All employees of the Engineer shall have such knowledge and experience as will enable them to perform the duties assigned to them.

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11.3 The Engineer certifies that it presently has adequate qualified personnel in its employment for performance of the services required under this Agreement. The Engineer may not change the project manager without prior consent from the Authority with such consent not unreasonable withheld. The Authority retains the right to approve all personnel assigned by the Engineer to perform the work and services required by this Agreement and request a change if the Authority finds certain personnel unsatisfactory.

11.4 The Engineer agrees to maintain (in sufficient detail as will properly reflect all work done and results achieved in the performance of this Agreement) tracings, plans, specifications, maps, basic survey notes and sketches, books, records, reports, research notes, charts, graphs, comments, plans, comparisons, computations, analyses, recordings, photographs, computer programs, and documentations thereof, and other graphic or written data or deliverables generated in connection with the work called for in the Agreement; all such information and documentations to be termed "Data" under this Agreement.

11.5 All Data is the exclusive property of the Authority and shall be furnished to the Authority upon request and shall not be used or released by the Engineer or any other person except with the prior approval of the Authority. All documents prepared by the Engineer and all documents furnished to the Engineer by the Authority shall be delivered to the Authority upon completion of the relevant milestone for payment and/or termination of this Agreement. Provided, however, that none of the documents or materials are intended or represented by Engineer to be suitable for reuse by the Authority, or others on extensions of the project or on any other project. Any reuse without written verification or adaptation by Engineer for the specific purpose intended will be at Authority's sole risk and without liability or legal exposure to Engineer.

11.6 The Engineer and any subconsultant, subcontractor or vendor shall keep and maintain all Data and all other material relating to this Agreement and related projects, and shall make all such material available at any reasonable time during the term of work on the Agreement and related projects and for five (5) years from the date of final payment to the Engineer for auditing, inspection, and copying upon the Authority's request or, if federal dollars are applied to the Agreement, upon the request by the federal government.

11.7 The Engineer shall grant the Authority and the Texas Department of Transportation an irrevocable, perpetual, nonexclusive license to use all intellectual property acquired or developed under this Agreement.

ARTICLE XII SUBCONTRACTING

12.1 The Engineer was chosen to perform work on this Agreement based upon the training and qualifications of its members. Therefore, subletting, assignment, or transfer of any work to subconsultants, unless approved in writing by the Authority prior to performance of work, is expressly prohibited.

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12.2 All subcontracts shall include the provisions required in this Agreement and shall be approved as to form, in writing, by the Authority prior to its execution. Subcontracts in excess of \$10,000 shall be submitted to the Texas Department of Transportation for review and approval prior to execution.

**ARTICLE XIII
EVALUATION OF WORK**

The Authority and its authorized representatives shall have the right at all reasonable times to review or otherwise evaluate the work performed or being performed hereunder.

**ARTICLE XIV
SUBMISSION OF REPORTS**

All applicable study reports and analysis shall be submitted in preliminary form for review by the Authority's representatives before a final report is issued. The Authority's review of such reports shall be done in a timely manner so that Engineer can comply with the project schedule. The Authority's comments or questions on the preliminary report shall be addressed in the final report.

**ARTICLE XV
BREACH OF AGREEMENT**

15.1 Violation of the Agreement terms or breach of this Agreement by the Engineer shall be grounds for termination of the Agreement. Any additional costs to the Authority that arise from the Engineer's default, breach of Agreement, or violation of Agreement terms shall be paid by the Engineer. This Agreement shall not be considered as specifying the exclusive remedy for any default, but all remedies existing at law and in equity may be availed of by either party and shall be cumulative.

15.2 Venue for disputes related to this Agreement shall be Hidalgo County, Texas.

15.3 This Agreement shall be construed under and in accordance with the laws of the State of Texas.

**ARTICLE XVI
TERMINATION**

16.1 This Agreement shall terminate at the close of business on _____ unless extended as provided herein. The Agreement may be terminated before the stated termination date by any of the following conditions:

1. By mutual consent, in writing, of both parties;

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2. By the Authority, by notice in writing to the Engineer as a consequence of failure by the Engineer to perform the services set forth in a satisfactory manner;
3. By either party, upon the failure of the other party to fulfill its obligations as set forth herein;
4. By the Authority, for reasons of its own and not subject to the mutual consent of the Engineer upon not less than ten (10) calendar days written notice to the Engineer; and
5. By written notice from the Authority upon satisfactory completion of all services and obligations described herein.

16.2 Should the Authority terminate this Agreement as herein provided, no fees other than fees due and payable at the time of termination and shall thereafter be paid to the Engineer. The determination of the value of the work performed by the Engineer prior to termination shall be at the Authority's reasonable discretion. Compensation for work at termination will be based on a percentage of work completed at the time of the termination.

16.3 If the Engineer defaults in the performance of this Agreement or if the Authority terminates this Agreement for fault on the part of the Engineer, the Authority will give consideration to the actual costs incurred by the Engineer in performing the work to the date of default, the amount of work which was satisfactorily completed to the date of default, the value of the work which is usable to the Authority, the cost to the Authority of employing another firm to complete the work required and the time required to do so, and other factors which affect the value to the Authority of the work performed at the time of default.

16.4 The termination of this Agreement and payment of an amount in settlement as prescribed above shall extinguish all rights, duties, and obligations of the Authority and the Engineer under this Agreement except the obligations set forth in: **Article X Federal Requirements; Article XIII Evaluation of Work; Article XVII Compliance with Laws; Article XVIII Indemnification; Article XIX Engineer's Responsibility; and Article XXI Retention, Availability of Records, and Audit Requirements** of this Agreement. If the termination of the Agreement is due to the failure of the Engineer to fulfill its obligations under the Agreement, the Engineer shall be liable to the Authority for any additional costs occasioned to the Authority.

ARTICLE XVII COMPLIANCE, CONDUCT, AND CONFLICTS

17.1 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 salary and wage statutes and regulations, and licensing laws and regulations. When

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required, the Engineer shall furnish the Authority with satisfactory proof of its compliance.

17.2 The Engineer shall not in any way exercise any portion of the authority or powers of the Authority and shall not make a contract or commitment or any way represent itself as an agent of the Authority beyond the scope of this Agreement.

17.3 The Engineer shall not engage the services under this Agreement of any present or former Authority board member or key employee/consultant who was involved as decision maker in the selection or approval process or who negotiated and/or approved billings or contract modifications for this Agreement.

17.4 The Engineer agrees that no public or private interest exists and none shall be acquired directly or indirectly which would conflict in any manner with the performance of this Agreement.

17.5 No contract for the construction of a project shall be awarded to the firm that designed the project, or its subsidiaries, affiliates, the parent company or subconsultants, except with the written approval of the Authority.

17.6 The Engineer warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Engineer, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Engineer, any fee, commission, percentage, brokerage fee, gift, or other consideration, contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the Authority shall have the right to annul this Agreement without liability.

17.7 Any person who is doing business with or who may do business with the Authority under this Agreement may not make any offer of benefits, gifts, or favors to employees or Board Members of the Authority. The only exceptions allowed are ordinary business lunches and items that have received the advanced written approval of the Authority's general counsel.

ARTICLE XVIII INDEMNIFICATION

THE ENGINEER SHALL SAVE AND HOLD HARMLESS THE AUTHORITY AND ITS OFFICERS, EMPLOYEES, AND CONSULTANTS FROM ALL CLAIMS, LIABILITY, ACTION, AND LOSS (INCLUDING DAMAGE OR INJURY INCLUDING DEATH TO PERSONS OR PROPERTY) DUE TO ACTIVITIES OF ITSELF, ITS AGENTS, SUBCONTRACTORS, OR EMPLOYEES PERFORMED UNDER THIS AGREEMENT AND WHICH ARE CAUSED BY OR RESULT FROM ERROR, OMISSION, OR NEGLIGENT ACT, INCLUDING ANY VIOLATION OF ANY STATUTES, ORDINANCES, BUILDING CODES OR REGULATIONS, OF THE ENGINEER OR OF ANY

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PERSON EMPLOYED OR ENGAGED BY THE ENGINEER, AND THE DEFENSE OF ANY SUCH CLAIMS, LIABILITY, ACTION, OR LOSS.

THE ENGINEER SHALL ALSO INDEMNIFY THE AUTHORITY AGAINST ALL LIABILITY AND LOSS IN CONNECTION WITH, AND SHALL ASSUME FULL RESPONSIBILITY FOR, PAYMENT OF ALL FEDERAL, STATE, AND LOCAL TAXES OR CONTRIBUTIONS IMPOSED OR REQUIRED UNDER UNEMPLOYMENT INSURANCE, SOCIAL SECURITY AND INCOME TAX LAWS, WITH RESPECT TO THE ENGINEER AND THE ENGINEER'S EMPLOYEES, IF ANY, ENGAGED IN PERFORMANCE OF THIS AGREEMENT.

THE ENGINEER SHALL ALSO SAVE AND HOLD HARMLESS THE AUTHORITY FROM ANY AND ALL EXPENSE, INCLUDING, BUT NOT LIMITED TO, REASONABLE ATTORNEY FEES WHICH MAY BE INCURRED BY THE AUTHORITY OR LIABILITIES WHICH MAY BE IMPOSED ON THE AUTHORITY AS THE RESULT OF SUCH ERROR, OMISSION, OR NEGLIGENT ACT BY THE ENGINEER, ITS AGENTS, ITS SUBCONTRACTORS, OR EMPLOYEES.

**ARTICLE XIX
ENGINEER'S RESPONSIBILITY**

19.1 The Engineer shall be responsible for the accuracy, completeness, and correctness of work, plans, and data prepared under this Agreement and shall check all such material accordingly for, but not limited to, completeness, missing items, correct multipliers, and consistency.

19.2 Acceptance of the work by the Authority will not relieve the Engineer of the responsibility for subsequent correction of any errors and the clarification of any ambiguities.

19.3 The Engineer shall promptly make necessary revisions or corrections resulting from errors, omissions, or negligent acts without additional compensation.

**ARTICLE XX
ENDORSEMENT**

The Engineer's seal shall be endorsed and affixed to plans, reports, and engineering data furnished under this Agreement.

**ARTICLE XXI
RETENTION, AVAILABILITY OF RECORDS, AND AUDIT REQUIREMENTS**

The Engineer shall maintain all records pertaining to cost incurred and shall make such records available during the Agreement period and for four (4) years from the date of

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final payment under this Agreement or until pending litigation has been completely and fully resolved, whichever occurs last. The Authority or any of its duly authorized representatives shall have access to any all records of the Engineer which are directly pertinent to this Agreement for the purpose of making audits, examinations, excerpts, transcriptions and for checking the amount of work performed by the Engineer.

ARTICLE XXII INSURANCE

22.1 The Engineer shall obtain and maintain insurance 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 Authority in the amount of statutory obligations imposed under the Texas Workers' Compensation Law.
2. Commercial General Liability, endorsed with the Authority as an additional insured and endorsed with a waiver of subrogation in favor of the Authority to the extent of the liabilities assumed by Engineer under **ARTICLE XVIII INDEMNIFICATION** of this Agreement, in limits of liability of one million dollars (\$1,000,000) combined single limit each occurrence and in the aggregate for bodily injury and property damage.
3. Professional Liability in limits of one million dollars (\$1,000,000) each claim and in the aggregate.

The coverage and amounts designated herein are minimum requirements and do not establish limits of the Engineer's liability. Additional coverage may be provided at the Engineer's option and expense.

The issuer of any policy must have a rating of at least B+ and a financial size of Class VI or better according to the latest *Best's* rating.

22.2 The Engineer shall furnish proof of insurance by means of a completed Attachment E – Certificate of Insurance -- Hidalgo County Regional Mobility Authority, attached hereto and made a part thereof with the Project Name and the Engineer's name stated thereon, to be submitted prior to the beginning of the Project. The Engineer will be considered in breach of this Agreement should the Engineer fail to maintain the required insurance coverage during the term of this Agreement. The termination of this Agreement resulting from failure to maintain the required insurance will be carried out in accordance with the termination provisions herein.

22.3 The services to be provided under this Agreement will be performed entirely at Engineer's risk and Engineer assumes all responsibility for the condition of vehicles or other instrumentalities used in the performance of this Agreement.

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22.4 To the extent that this agreement authorizes the Engineer or its subcontractor to perform any work on Texas Department of Transportation right of way, before beginning work the entity performing the work shall provide the Authority and the Texas Department of Transportation with a fully executed copy of the Department's Form 1560 Certificate of Insurance verifying the existence of coverage in the amounts and types specified on the Certificate of Insurance for all persons and entities working on Department right of way. This coverage shall be maintained until all work on the Department right of way is complete. If coverage is not maintained, all work on Department right of way shall cease immediately, and, the Authority may recover damages and all costs of completing the work.

**ARTICLE XXIII
SUCCESSORS AND ASSIGNS**

23.1 The Engineer and the Authority 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 party in respect to all covenants of this Agreement.

23.2 The Engineer shall not assign, subcontract, or transfer its interest in this Agreement without the prior written consent of the Authority.

**ARTICLE XXIV
SEVERABILITY, AMDENDMENT, & COUNTERPARTS**

24.1 In the event any one or more of the provisions contained in this Agreement, for any reason, shall 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.

24.2 Any modifications, amendments, or additions to this Agreement shall be in writing and agreed to by the Parties herein.

24.3 This Agreement may be executed by the parties in counterpart.

**ARTICLE XXV
NOTICE**

25.1 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 address:

Regional Mobility Authority
Hidalgo County RMA
510 S. Pleasantview Drive
Weslaco, Texas 78596

Engineer

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Attn: Chairman

25.2 Within 10 days after the execution of this Agreement, the Authority shall submit a fully executed copy of the Agreement to the Texas Department of Transportation.

* * *

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IN WITNESS WHEREOF, the Authority and the Engineer have executed these presents in duplicate and acknowledge that this Agreement constitutes the sole and only Agreement of the Parties hereto and supersedes any prior understandings or written or oral agreements between the Parties respecting the within subject matter.

AUTHORITY

ENGINEER

By: _____

By: _____

Name: _____

Name: _____

Title: Chairman _____

Title: _____

Hidalgo County Regional Mobility Authority

Company: _____

Date: _____

Date: _____

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ATTACHMENT A
SERVICES TO BE PROVIDED BY THE AUTHORITY

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ATTACHMENT B
WORK SCHEDULE

[provided by Engineer]

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ATTACHMENT C
FEE SCHEDULE

[provided by Engineer]

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ATTACHMENT D
WORK SCHEDULE

[provided by Engineer]

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ATTACHMENT E
CERTIFICATE OF INSURANCE

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ATTACHMENT F
WORK AUTHORIZATION FORM

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ATTACHMENT G
DBE CERTIFICATIONS

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ATTACHMENT H
CONFLICT OF INTEREST CERTIFICATE

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**ATTACHMENT I
DEBARMENT CERTIFICATE**