

THE STATE OF TEXAS §
 §
COUNTY OF HIDALGO §

**AGREEMENT FOR AUCTIONEER SERVICES
C-07-370-10-09**

THIS AGREEMENT FOR AUCTIONEER SERVICES (the "Agreement") is entered into effective as of this the 9th day of **October, 2007** by and between **HIDALGO COUNTY, TEXAS**, ("County") and **Abrego Towing & Storage, a Texas, Limited Liability Company**, ("Company").

WHEREAS, County has solicited proposals from qualified parties to conduct public auction sales of surplus and/or seized property(Trailer/SemiTrailer, Independent Motorcycles, Travel Trailer, and Wholesale) belonging to County: and

WHEREAS, Auctioneer has submitted a proposal to provide the services required by County in accordance with the request for Bids attache hereto as Exhibit "A" and Auctioneer bid proposal attached hereto as Exhibit "B" and

WHEREAS, County has determined that the proposal by Auctioneer is the lowest and best bid submitted, and a contract should be awarded to Auctioneer; and

WHEREAS, the parties wish to further reduce to writing their representations, warranties and agreements regarding the services to be provided by Auctioneer to County.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows;

1. In the event County, in its sole discretion, determines that surplus or seized property in its possession is to be sold and that the services of a state-licensed auctioneer are required, Auctioneer agrees that it will perform the following services for and on behalf of County, in exchange for the consideration herein expressed (the "Services"): advertising of the sale in at least two issues of the proper local newspaper (including proper disclosures pursuant to Chapter 263 of the Texas Local Government Code). Labeling and set-up of items prior to the auction, preparation and clearing of all auction proceeds prior to delivery of goods to buyer, preparation of all paperwork necessary to transfer title to personal property, issuance of a cashier's check to County for the net sale proceeds, and collection deposit of all sales taxes.

2. For and in consideration of Auctioneer's services hereunder, County agrees to pay Auction a fee equal to ten percent (10%) of the gross sales receipts of any auction conducted by Auctioneer. Such amount may be deducted from the sales receipts by Auctioneer prior to remitting to County the cashier's check for the net sales.

3. The term of this agreement shall be for a period of one (1) year from the effective date hereof, as first-above written. County, in its sole discretion, may elect to extend the term of this contract for an additional two (2) one year term, under the same rates, terms and conditions. Contract may be extended at the sole discretion of County for an additional sixty (60) days, unless this Contract is terminated pursuant to the provisions herein, whichever occurs first.

4. Auctioneer represents and warrants to County as follows:

- (a) Auctioneer is licensed by all appropriate federal, state and local agencies to conduct the Services herein described.
- (b) A true and correct copy of Auctioneer's license is attached hereto as Attachment #1 to Exhibit "B"
- (c) Auctioneer has been issued a Texas motor vehicle dealer "P" number, as evidenced by Attachment #1 to Exhibit "B".
- (b) Auctioneer understands that County retains the sole discretion to determine if an auction is to be conducted which requires the services of a licensed auctioneer, and that the awarding of this bid and the execution of this Agreement by County do not constitute any representation or guaranty that any such auction will occur.
- (e) Auctioneer is not required to maintain Workers' Compensation Insurance pursuant to the applicable provisions of Texas Labor Code.
- (f) Concurrently with his execution of this Agreement, Auctioneer has presented to County a certificate of insurance indicating A five-hundred thousand general liability insurance policy, naming County as an additional insured, with limits of at least \$300,000 providing additional coverage to all underlying liabilities consistent with potential exposure of County in accordance with the Texas Tort Claims Act. Each policy of insurance required hereunder shall extend for a period equivalent to the term of this Agreement, and any insurer hereunder shall be required to give at least thirty (30) days written notice to the County Judge prior to the cancellation of any such coverage on the termination date or otherwise.
- (g) County and Auctioneer agree that either party may terminate this contract upon thirty (30) days written notice at any time for any reason or no reason at all.

5. Auctioneer agrees to promptly notify County of any suspension, termination or

revocation of Auctioneer's License or of the liability insurance coverage required, hereunder, in which event County may, in its sole discretion, elect to immediately terminate this Agreement.

6. With respect to any property seized by any law enforcement agency of Hidalgo County, or any cooperative agency of which Hidalgo County is a party, including, but not limited to, the Hidalgo County Financial Disruption Task Force, Auctioneer agrees to store such property for County for the period prior to any sale being conducted. No storage fees will be assessed to County or any cooperative agency as herein described, for the storage of such property, without regard to the fact that such property is not, upon final adjudication, awarded to County, or that County, upon final award or adjudication, elects to retain such property for its own use, rather than to sell it at public or private auction. To the extent permitted by the court in which any forfeiture or seizure proceeding, Auctioneer may elect to charge its usual and customary storage or impoundment fees, consistent with the fee schedule attached hereto as Exhibit "C" and incorporated herein by reference, to the owners of seized property held by Auctioneer which is awarded back to such owners upon final adjudication of the forfeiture or seizure proceeding. The storage area provided by Auctioneer will consist of three (3) acres, fenced, controlled access compound, with guard dog.

7. For all non-law enforcement departments, no property shall be allowed into Auctioneer's compound unless the property has been previously declared surplus through Commissioners' Court. Proof of such action must be requested by Auctioneer. Items being sent to Auctioneer for storage prior to auction must be cleared through the Purchasing Department's Surplus Manager. The Surplus Manager will coordinate with Auctioneer and the respective departments in arranging for the transfer of items that are to be auctioned.

8. The storage area provided by Auctioneer pursuant to Paragraph 6, above, will be open for business at least seven (7) hours, daily, excluding weekends and official County holidays. In addition, Auctioneer will maintain personnel at the storage location 24 hour per day, and will post emergency access telephone numbers for deliveries of property after hours, and on weekends or holidays.

9. Auctioneer will conduct any auction sale required hereunder at any location within Hidalgo County, as requested by County, including Auctioneer auction center. Sales will be scheduled on dates and at times mutually convenient to the parties hereto, and so as to enhance the public's attendance at such sales. In the event a scheduled sale must be canceled by either party hereto, or because of inclement weather, the sale will be rescheduled for the next appropriate date upon which both parties are available.

10. Unless minimum bids are otherwise specified by County in writing prior to the conducting of an auction sale hereunder, all auctions will result in sales of all items to the highest bidder. County will, unless otherwise specified in writing, with sufficient advance notice to Auctioneer for inclusion in any auction catalogue or published listing, convey merchantable title to all goods sold at auction: the parties acknowledge, however, that County may, from time to time, be required to convey items without warranty of title.

11. Auctioneer will indemnify and hold County harmless from any and all claims, actions, liability and expenses (including costs of judgments, settlements, court costs, and attorneys' fees, regardless of the outcome of such claim or action) caused by, resulting from, or alleging negligent or intentional acts or omissions or any failure to perform any obligation undertaken or any covenant in this Agreement, whether such act, omission or failure was Auctioneer or that of any person providing services hereunder by or through Auctioneer. Upon written notice from County, Auctioneer will resist and defend at its own expense, and by counsel reasonably satisfactory to County, any such claim or action.

12. The terms and conditions of the specifications attached hereto as Exhibit "A" and the bid submitted by Auctioneer attached hereto as Exhibit "B" are incorporated herein by reference and are made a part hereof as if such were fully set forth herein. In the event of any conflict between any other term of this Agreement and those terms incorporated herein as a result of this Paragraph II, the provision set forth in the text of this Agreement shall control over the term or condition expressed in the provisions incorporated herein by this Paragraph II.

13. **Miscellaneous Provisions**

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

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

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

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

13.05 **Notice.** Except as may be otherwise specifically provided in this Agreement, all notices, demands requests or communications required or permitted hereunder shall be in writing

and shall either be (i) personally delivered against a written receipt, or (ii) sent by registered or certified mail, return receipt requested, postage prepaid and addressed to the parties at the addresses set forth below, or at such other addresses as may have been theretofore specified by written notice delivered in accordance herewith:

If to County:	Hidalgo County, Texas Attention: County Judge 100 E. Cano, 2 nd Floor Edinburg, Texas 78539
with copy to:	Hidalgo County Purchasing Department Attention: Purchasing Agent 100 E. Cano, 4 th Floor Edinburg, Texas 78539
If to Auctioneer	Abrego Towing & Storage, LLC Attention: Anna M. Abrego PO Box 3038 McAllen, Texas 78502

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

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

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

13.08 **Assignment.** This Agreement shall not be assignable by either party hereto without the prior written consent of the other. Consent to any assignment of this Agreement shall not constitute consent to any future or subsequent assignment by either party hereto.


13.09 **Headings.** The headings and captions contained in this Agreement are solely for convenient reference and shall not be deemed to affect the meaning or interpretation of any provision or paragraph hereof.

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

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

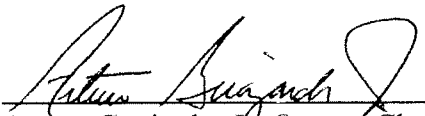
IN WITNESS WHEREOF, the parties have executed this Agreement, effective as of the day and year first above written.

COUNTY OF HIDALGO



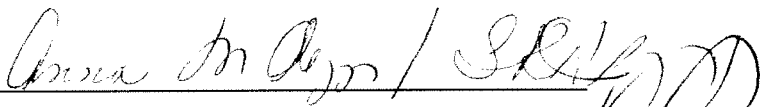
Juan D. Salinas, III County Judge

ATTEST :



Arturo Guajardo, Jr. County Clerk

COMPANY: Abrego Towing & Storage, LLC

By: 
Printed Name: ANNA M ABREGO / SHADONA R. ABREGO
Title: MANAGER MANAGER

Approved on Commissioners' Court October 9, 2007

APPROVED AS TO FORM
Atlas & Hall, LLP

By: 

EXHIBIT "A"
SPECIFICATIONS

Exhibit "A"

HIDALGO COUNTY "ADDITIONAL AUCTIONEER SERVICES"

BID NO.: # 07-370-09-26-ROL

SPECIFICATION

Project Overview:

Hidalgo County is seeking to contract with a qualified vendor to conduct public auction sales for Trailer/Semi trailer, motorcycles, Travel trailer, and Wholesale "ONLY" called by the Hidalgo County Commissioners Court which require the services of a Licensed Auctioneer, as determined by the Court in its sole discretion on an "AS NEEDED BASIS". Auctioneer shall conduct the public auction sales of personal and/or real property of Hidalgo County including, but not limited to the following:

- 1.) All Hidalgo County departments under general and road and bridge fund;
- 2.) State and/or Federal funded programs, i.e. Department of Community Supervision and Corrections, Headstart, WIC, Drainage District #1 and Urban County;
- 3.) Law Enforcement Agencies, or Cooperative Agencies of which Hidalgo County is party, i.e. Hidalgo County HIDTA Task Force and DPS;

Note: Agencies shall obtain prior written approval from State and Federal agencies and submit to the Purchasing Department before the sale or disposition of any equipment purchased with funds from State and Federal regardless of cost.

Specifications & Requirements, Terms & Conditions

1. Auctioneer shall be licensed to perform public and private auctions within the State of Texas in accordance with all applicable Texas laws & regulations. A copy of the bidders Auctioneer License and Independent Dealer General Distinguishing Number or GDN must be submitted along with the bid for:

- A. Trailer/Semi trailer
- B. Independent Motorcycles
- C. Travel trailer
- D. Wholesale

Note: Refer to Texas Department of Transportation form LP021 of the Motor Vehicle Division for clarification

2. Bids will be based on the percentage of gross sale proceeds to be retained by Auctioneer on sales conducted by the Auctioneer during the contract term. Hidalgo County will require documentation (vendor invoice & customer receipt copies) on additional charges to buyers (at buyer's' option) for batteries, locksmith services, etc.
3. Auctioneer will make all auction items presentable so as to receive the best possible bid in addition the auctioneer should also start all motorized items that are in working condition during auction.
4. Auctioneer will maintain all insurances and its limits for **Automobile, General, & Worker's Compensation Insurance**. (Refer to Exhibit "C") through out the contract term.
5. Auctioneer will have twenty-four hour security monitoring service (cameras) at Auctioneer location or wherever auctioneer stores property inclosing but not limited for the following;
 - 1.) All Hidalgo County departments under general and road and bridge fund;
 - 2.) State and/or Federal funded programs, i.e. Department of Community Supervision and Corrections, Headstart, WIC, Drainage District #1 and Urban County;

- 3.) Law Enforcement Agencies, or Cooperative Agencies of which Hidalgo County is party, i.e. Hidalgo County HIDTA Task Force and DPS;
6. Auctioneer will be liable for all theft or vandalism of any items which has been accepted for Auction or Storage by awarded Auctioneer.
7. **Auction sales will be conducted at either option A or B sites with prior notice given to the Auctioneer:**
 Option A). Auctioneer's premises
 Option B). County-owned sites
8. In the event auction sales are conducted on other than County-owned or controlled premises, Auctioneer shall indemnify Hidalgo County harmless from any claims or damages arising out of the conduct of the sale.
9. **Statutory Notification:**
 The County will publish at its own expense, pursuant to Chapter 263.153, Of the Texas Local Government Code:
"(a) The Commissioner's Court shall publish notice of a sale of surplus or salvage property in at least one newspaper of general circulation in the County.
(b) The notice must be published on or after the 30th day but before the 10th day before the date of sale."
10. **Promotion of Sale through Auction:**
 A). It will be the Auctioneers responsibility to circulate notices promoting the Auction/Sale at the Auctioneer's expense, in English and Spanish (i.e. publication in newspapers).
 B). Auctioneer will provide evidence of such promotion to the Hidalgo County Purchasing Departments Fixed Asset Division as part of the documentation submitted with proceeds.
11. Services to be provided by the Auctioneer and staff at **no expense** to Hidalgo County and all mentioned parties shall include, but not limited to, the following:
 A). Re-keying, detail carwash (so as to look presentable) and gas;
 B). Auctioneer will check in all items submitted by Hidalgo County and all mentioned parties upon receiving any and all equipment and will submit an inventory status report to the Hidalgo County Purchasing Departments Fixed Assets Division on a monthly term;
 C). Auctioneer will remove all emblems, logos and exempt license plates from vehicles prior to the auction. All plates will be forwarded to the Hidalgo County's Fixed Asset Division;
 D). All copies of any ads, buyers lists, receipts and clearing of all auction proceeds must be forwarded to Hidalgo County Purchasing Departments Fixed Asset Division no later than fifteen (15) working days from the date of the auction.
 E). Auctioneer will handle any disputes that may arise during and at the end of auction & may ask for assistance from the Purchasing Department's Fixed Asset Division if required for resolution.
 F). Auctioneer must provide a secure fence area of at least 3 (three) acres and an enclosed warehouse (minimum of 1,000 sq.ft.), for storage of all types of vehicles seized/confiscated by law enforcement agencies of Hidalgo County, or any Cooperative agency of which Hidalgo County is a party of, including, but not limited to, the Hidalgo County HIDTA Task Force, DPS and the Hidalgo County District Attorney's Office and other items which Hidalgo County or all mentioned parties wishes to store for auction or storage from all other department(s) or entities. Storage area must be open at least eight (8) hours a day Monday-Friday and must be available for emergencies on nights and weekends.
 G). Auctioneer shall announce at each auction, prior to starting, that all vehicles must be registered within twenty (20) working days and that a vehicle to be exported shall be exported within seventy two (72) hours from date of auction sale.
 H). Auctioneer shall video tape or record all auctions and submit copies to the County.

- D). Auctioneer will be responsible for preparing and completing the Application for Texas Certificate of Title (form 130U), Texas Motor Vehicle Transfer Notification (form VTR0346) and will stamp all titles and label all vehicles that are to be exported "Export Only" on the front back of the title and vehicle windshields for all County vehicles to be auctioned and submit all copies to the Purchasing Department.
- J). Auctioneer is responsible for retaining records for a period of three years from the date of sale. The records should be made available to the County upon request.
- 12. No storage fees will be assessed to the County during and at the end of the contract term for any vehicles returned to defendant(s) ,and/or if the County wishes to use the vehicle after it has been awarded to the extent permitted by the Court(s) in any forfeiture or seizure proceeding.
- 13. Auctioneer may elect to charge its usual and customary storage, wrecker or impoundment fees, consistent with the fee schedules to the owners of seized property held by the Auctioneer which is awarded to such owner upon final adjudication of the forfeiture or seizure proceeding by any Court.
- 14. No storage fees will be assessed to Hidalgo County for any remaining vehicles upon expiration of the contract term.
- 15. In the event that the Auctioneer can not respond adequately to the needs of the County by reason of meeting the County's auction schedule or any other reason, the Auctioneer shall advise the County in writing within 24 hours of said inability. The County shall have the right to deduct the cost incurred in having to provide said services from the payment to be made to the Auctioneer under the contract and the existing contract will be canceled.
- 16. Hidalgo County reserves the right to audit the records of the auctioneer related to the sale(s) of all County property at the auction sales.
- 17. County items shall be first priority in all sales, which may include State and Federal funded departments / programs as identified in project overview. Hidalgo County reserves the right to add/delete items from the list up to the day of the auction. Hidalgo County reserves the right to video tape or record any and all auction sales.
- 18. Hidalgo County reserves the right to view the proposed premises prior to award of bid.
- 19. Auctioneer will provide towing service on an "AS NEEDED BASIS" to the County.

Terms and Conditions:

- 1. Successful bidder will be awarded a one (1) year term contract with the County's option to extend the term for an additional two (2) one-year term under the same rates, terms and conditions. The award of a contract does not constitute a representation or guarantee by Hidalgo County that any or all public or private auction sales will be conducted by it during the contract term.
- 2. Hidalgo County reserves the right to continue this bid for an additional sixty (60) day Grace Period at the end of the contract term for unforeseen delay in award of new bid for the next contract term.
- 3. Auctioneer, his employees or agents, or any of his associates, shall not have any personal financial interest, directly or indirectly in the auction, by bidding or causing someone to bid, soliciting or influencing anyone to bid other than through advertising.
- 4. No fee for Auctioneer Services are payable for items which do not receive the minimum bid or on which County rejects the price offered at auction.
- 5. The County may, in at sole discretion, allow item(s) with minimum bids established for auction, to be offered for auction as many times as allowed by Commissioners Court, if the minimum bid is not met.

ADDITIONAL INFORMATION:

Hidalgo County is requesting that any and all questions, inquiries and clarifications regarding quotes, bids, proposals or statements of qualifications be addressed to, Martha L. Salazar, CPPB, Purchasing Agent, 100 E. Cano St.-4th Floor, Edinburg, Texas 78539. **TELEPHONE INQUIRIES WILL NOT BE ACCEPTED.**

ALL WRITTEN INQUIRIES WILL BE ACCEPTED VIA FACSIMILE NO LATER THAN, Wednesday, September 19, 2007 by 5:00 P.M.. Responses to said inquiries will be sent to all applicants via facsimile by no later than, Friday, September 21, 2007 by 5:00 P.M..

EXHIBIT "B"
FEE SCHEDULE

EXHIBIT "B"
HIDALGO COUNTY
"ADDITIONAL AUCTIONEER SERVICES"
BID NO.: 07-370-09-26-ROL

BID PAGE

A. BID PERCENTAGE % 10%

B. TOWING FEES LARGE VEHICLES (i.e. tractor trailer, buses)

\$ 250.00 Includes: Semi-Trailer(s)
Travel-Trailer(s)

\$ 100.00 for motorcycle(s) Only

BIDDER/COMPANY NAME: Abrego Towing & Storage LLC

ADDRESS: P O Box 3038

CITY/STATE/ZIP CODE: McAllen, Texas 78502

PHONE & FAX NO.'S: Office: 956-316-4409 / 956-631-4601 Fax: 956-383-2534

CELLULAR & BEEPER NO.'S: Anna Abrego: 956-292-3287

Shawna R Abrego -Ruiz: 956-648-0779

AUTHORIZED SIGNATURE:

PRINTED NAME: Anna M Abrego / Shawna R Abrego

TITLE: Manager / Manager

*** STATEMENT:** Please review