

REQUIREMENTS AGREEMENT

C-08-164-06-03

THIS AGREEMENT (the "Agreement") is entered into effective as of **July 2, 2008** by and between **McKesson Corporation, a Virginia Company** ("Seller") and **HIDALGO COUNTY** ("Buyer").

WHEREAS, Buyer has solicited proposals for the supply of its requirements of Hidalgo County "**Medical Supplies**," as further described in Exhibit "A" which is attached hereto and incorporated herein by reference for all purposes (the "Products") for a period of one year; and

WHEREAS, Seller has submitted a proposal to supply Buyer's requirements; and

WHEREAS, Buyer has determined that Seller has submitted the lowest and best bid to meet Buyer's requirements for the Product.

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 is hereby acknowledged, the parties hereto agree as follows:

1. Buyer agrees to purchase from Seller, and Seller agrees to sell to Buyer, all of the Products that Buyer may require for use by Buyer in "**Medical Supplies**" in the areas of **HIDALGO COUNTY** projects for a period of one (1) year from **July 2, 2008 to July 2, 2009** with the option to renew for an additional **one (1)** year (If applicable) under the same rates, terms, and condition, and it is agreed that the Products will meet the specifications set forth in Exhibit "A"

2. When Buyer determines that it needs a quantity of the Products to be delivered, it will, according to its Purchasing Policies, complete and submit to Seller a Purchase Order describing the type and quantity of the Products required. The Products are to be delivered by Buyer to the location in Hidalgo County specified by Buyer in its Purchase Order.

3. Buyer agrees to pay Seller for each Purchase Order based on the prices set out in Exhibit "B". Seller shall render invoices for each Purchase Order, and the invoices shall be paid by Buyer on or before the 30th day following receipt of the invoice.

4. County and Seller 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. General Provisions.

a. **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.

b. **No Waiver.** No waiver by Buyer 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.

c. **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 Buyer and Seller, and not otherwise.

d. **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.

e. **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 Buyer: Hidalgo County
Attention: County Judge
100 E. Cano, 2nd Floor
Edinburg, Texas 78539

If to Seller: McKesson Medical-Surgical Inc.
Attention: Therese Mugge
8121 Landmark Road
Richmond, VA 23228

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.

f. **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.

g. **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.

h. **Assignment.** This Agreement shall not be assignable.

i. **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.

j. **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

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

l. **Commitment of Current Revenues Only.** In the event that, during any term hereof, the Commissioners Court does not appropriate sufficient funds to meet the obligations of Buyer under this Agreement, Buyer may terminate this Agreement upon sixty (60) days written notice to Seller. Buyer 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 Buyer pursuant to the provisions of Tex. Loc. Govt. Code Ann. § 271.903 (Vernon Supp. 1996).

m. **Insurance.** Company shall provide insurance in force on all its vehicles and all persons connected with providing services under this Contract naming County as an additional insured (with coverages and in the amounts described on Exhibit "C" attached hereto and incorporated herein at this point for all purposes), and shall furnish to County certificates of such insurance coverage.

n. **Purchasing Ethics.** Seller represents and warrants it has not, during the process of being awarded this contract violated the following ethical standards of Buyer and, upon and after the execution of this Agreement, agrees to abide by the following ethical standards of Buyer:

- (1) It shall be a breach of ethics to offer, give or agree to give any elected official,

department head or employee, or former elected official, department head or employee, of Hidalgo County, or for any elected official, department head or employee or former elected official, department head or employee of Hidalgo County, to solicit, demand, accept or agree to accept from another person, entity or organization, a gratuity or an officer of employment in connection with any decision, approval, disapproval, recommendation, preparation or any part of a program requirement or purchase request, influencing the content of any specification or procurement standard, rendering of advise, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefor pending before any department or agency of Hidalgo County.

(2) It shall be a breach of ethics for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor for any contract for Hidalgo County, or any person associated therewith, as an inducement for the award of a subcontract or order.

EXECUTED effective as of the day and year first above written.

APPROVED AS TO FORM:

Atlas & Hall, L.L.P

By: [Signature]

APPROVED BY COMMISSIONERS COURT ON, 6-3-08.

HIDALGO COUNTY

By: [Signature]
Juan D. Salinas, III, County Judge

ATTEST:

[Signature]
Arturo Guajardo, Jr., County Clerk

Vendor McKesson Medical-Surgical
By: [Signature] Inc.
Printed Name: Therese Mugge
Title: Director Government Sales

**EXHIBIT “A”
SPECIFICATIONS**

EXHIBIT "A"

Hidalgo County WIC Program "Medical Supplies" BID No. 2008-164-05-14 SMA

SPECIFICATIONS/REQUIREMENTS

The Hidalgo County WIC Program is accepting bids from vendors selling original equipment manufactures. Hidalgo County reserves the right to award the bid to MULTIPLE bidders if the County determines it is in its best interest to do so.

SCOPE OF SERVICES:

The County of Hidalgo, Texas requires the service of a contractor(s) to furnish Medical Supplies for the WIC Program including, but not limited to, the following:

- 1) Providing original manufacturer items.
- 2) Have been in business for at least two years.
- 3) All items will be on an "as-needed basis only" there is no guaranteed annual volume.
- 4) Stock the necessary material in order to be able to provide any item within 24 hours as an Emergency.

REQUIREMENTS:

- 1) **SAMPLES OF ALL ITEMS MUST BE SUBMITTED WITH BID.**
- 2) Delivery must be made within five (5) days maximum from the date order is placed.

TERMS & CONDITIONS:

- 1) Term of contract is for one (1) year period with County's option to extend the contract for an additional year.
- 2) County will seek purchases from state awarded vendors whenever it is, it's best interest to do so.
- 3) 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 next contract term.
- 4) After bid is awarded and successful awarded contractor defaults in meeting the general instructions to bidders(s) and/or in complying with the contract agreement, Hidalgo County reserves the right to seek the services of the next lowest bidder(s). In such event, Hidalgo

such event, Hidalgo County shall charge the successful bidder the difference for any additional cost to the County.

- 5) Hidalgo County reserves the right to award to multiple vendors if the County determines it is in its best interest to do so.
- 6) Any contract awarded to a successful bidder will be in effect until;
 - A.) The contract expires
 - B.) Delivery acceptance of products and/or performance of services ordered, or
 - C.) Terminated by County with thirty (30) day"s written notice prior to be cancellation.

Market Volatility and Unit Price Adjustments:

Hidalgo County recognizes that during periods of national crisis and unstable economic conditions, unforeseen price increases might affect costs for goods and services contracted on an annual basis. The following procedure may be employed to mediate price volatility:

- 1) **Requesting Price Adjustment:** Upon written request of the Vendor to the County Purchasing Agent, the County may review evidence of prevailing industry-wide market conditions that warrant an adjustment in bid prices contained in the contract.
 - A Vendor must tie any price change clause to an industry-wide or otherwise nationally recognized index, or some other form of verifiable document. Such written request must be accompanied by a certified copy of the supplier's advisory or notification to the vendor of the price changes.
 - The Vendor must put the Purchasing Agent on the mailing lists for such publications so that the Purchasing Agent can monitor said changes. Such membership shall be at no cost to the County.
 - The County Purchasing Agent retains the right to determine whether or not such proposed price changes are in the best interest of the County.
 - No price escalation will be authorized in excess of the amount of the increase referred to in the supplier's notice.
 - The County may only grant a price increase if the evidence presented is deemed reliable. Should the County allow a price increase, the approved price change shall be honored for all orders received by the vendor or contractor after the effective date of such price change. Approved price changes are not applicable to orders already issued and in process at time of price change.
- 2) **Price Reduction:** Vendor shall notify the County at the time when the Vendor's costs for items and/or supplies reduce due to stabilization in the market at which time prices for items on this contract shall be reduced accordingly. Failure by the Vendor to notify the County of a decrease in costs for items and/or supplies for which the Vendor was granted a price adjustment, may result in immediate termination of this contract and the County shall

contract and the County shall not be obligated to pay the Vendor the difference between the contract price and the price adjustment.

- 3) **Timeframe for Adjusted Price Increases:** Price increases are only valid for the quarter in which they are requested and approved. Prices shall return to the original contract price at the beginning of the following quarter unless a Vendor notifies the County in writing within ten (10) days of expiration of the quarter in which the price increase is in effect, that it desires to have the price increase continue or that the Vendor is requesting a different price increase for the following quarter. Such request must be supplemented with sufficient justification to demonstrate that the price increase remains necessary. The County Purchasing Department shall have sole discretion whether to grant the price increase extension. The County too, shall have discretion to unilaterally reduce, eliminate or extend a price adjustment to the Vendor at any time upon written notice from the County to the Vendor demonstrating justification for such reduction, elimination or extension of the price adjustment.
- 4) **Allowable Review Periods:** Price adjustment reviews may only be requested by the Vendor on a quarterly basis. However, the County may at its own discretion, conduct temporary price adjustment reviews at any time. The County Purchasing Agent and/or the County Auditor reserve the right to audit and/or examine any pertinent books, documents, papers, records or invoices relating directly to the contract transaction in question after reasonable notice and during normal business hours.

Dollar Limit to Price Changes: The total increase in contract price shall not exceed twenty-five percent (25%) of the original contract price during the contract term.

ADDITIONAL INFORMATION:

Hidalgo County is requesting that any and all questions, inquires and clarifications regarding quotes, bids, proposals or statements of qualifications be addressed to Martha L. Salazar, CPPB, Purchasing Agent, 2812 South Business Hwy. 281, Edinburg, Tx 78539

ALL WRITTEN INQUIRIES WILL BE ACCEPTED VIA FACSIMILE NO LATER THAN, Wednesday, May 7, 2008 by 5:00 p.m. Responses to said inquiries will be sent to all applicants via facsimile by no later than Friday, May 9, 2008 by 5:00 p.m.

**EXHIBIT “B”
PAYMENT SCHEDULE**

**EXHIBIT “B”
PAYMENT SCHEDULE**

EXHIBIT "B"

BID PAGE
HIDALGO COUNTY WIC PROGRAM
"Medical Supplies"
Bid No. 2008-164-05-14-SMA

DESCRIPTION OF PRODUCTS	UNIT PRICE	QUANTITY PER BOX	BOXES PER CASE
Surgilance One Step Lancets 1.8 mm Puncture Depth 0.50 mm Puncture Width	14.99	100 / BX	15 BX / CS
Band-Aids (3/4 x 3)	1.73	100 / BX	24 BX / CS
Alcohol Preps	1.39	200 / BX	15 BX / CS
Sharps Containers (14 Qt. Size)	6.99	each	12 ea / CS
Vinyl Exam Small Gloves (powder free)	3.99	100 / BX	10 BX / CS
Vinyl Exam Medium Gloves (powder free)	3.99	100 / BX	10 BX / CS
Vinyl Exam Large Gloves (powder free)	3.99	100 / BX	10 BX / CS
Gauze (2x2)	.99	200 / BX	25 BX / CS
Alcohol (12 oz.)	.99	each	12 ea / CS
Menu Tissue Paper (12x12)	12.99	N/A	1000 / CS
Cotton tipped applicators (6")	4.64	1000 / BX	10 BX / CS

BIDDER'S / COMPANY NAME: McKesson Medical-Surgical Inc.

ADDRESS: 8741 Landmark Road

CITY: Richmond STATE: VA ZIP CODE 23228

PHONE No. 800-328-8111 x 6087 FAX No. 800-237-9766

SIGNATURE OF AUTHORIZED PERSON: Marsha Chevalier

PRINTED NAME: Marsha Chevalier TITLE: Government Sales
Manager

**EXHIBIT “C”
INSURANCE**

**EXHIBIT “C”
INSURANCE**

MARSH

CERTIFICATE OF INSURANCE

CERTIFICATE NUMBER
SEA-000783499-08

PRODUCER
MARSH RISK & INSURANCE SERVICES
THREE EMBARCADERO CENTER
P. O. BOX 193880
SAN FRANCISCO, CA 94119-3880
CALIFORNIA LICENSE NO. 0437153

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER OTHER THAN THOSE PROVIDED IN THE POLICY. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES DESCRIBED HEREIN.

00053 -GL-ALL-07/08 GLAL WC

INSURED
MCKESSON CORPORATION INCLUDING
MCKESSON MEDICAL-SURGICAL, INC.
ONE POST STREET
SAN FRANCISCO, CA 94104

COMPANIES AFFORDING COVERAGE

- COMPANY
A GOLDEN STATE INSURANCE COMPANY, LIMITED
- COMPANY
B OLD REPUBLIC INSURANCE COMPANY
- COMPANY
C
- COMPANY
D

COVERAGES

This certificate supersedes and replaces any previously issued certificate for the policy period noted below. 7

THIS IS TO CERTIFY THAT POLICIES OF INSURANCE DESCRIBED HEREIN HAVE BEEN ISSUED TO THE INSURED NAMED HEREIN FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THE CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, CONDITIONS AND EXCLUSIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
A	GENERAL LIABILITY	064-1-80101-2007	07/01/07	07/01/08	GENERAL AGGREGATE \$ 1,000,000	
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY				PRODUCTS - COMP/OP AGG \$ 1,000,000	
	<input checked="" type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR				PERSONAL & ADV INJURY \$ 1,000,000	
	OWNER'S & CONTRACTOR'S PROT				EACH OCCURRENCE \$ 1,000,000	
	<input checked="" type="checkbox"/> CONTRACTUAL LIABILITY				FIRE DAMAGE (Any one fire) \$ 1,000,000	
					MED EXP (Any one person) \$	
B	AUTOMOBILE LIABILITY	MW/TB19809	07/01/07	07/01/08	COMBINED SINGLE LIMIT \$ 1,000,000	
	<input checked="" type="checkbox"/> ANY AUTO				BODILY INJURY (Per person) \$	
	<input type="checkbox"/> ALL OWNED AUTOS				BODILY INJURY (Per accident) \$	
	<input type="checkbox"/> SCHEDULED AUTOS				PROPERTY DAMAGE \$	
	<input type="checkbox"/> HIRED AUTOS				AUTO ONLY - EA ACCIDENT \$	
	<input type="checkbox"/> NON-OWNED AUTOS				OTHER THAN AUTO ONLY: \$	
	<input checked="" type="checkbox"/> SELF INSURED FOR PHYSICAL DAMAGE				EACH ACCIDENT \$	
					AGGREGATE \$	
	GARAGE LIABILITY					EACH OCCURRENCE \$
	<input type="checkbox"/> ANY AUTO					AGGREGATE \$
		\$				
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	MWC11511200	07/01/07	07/01/08	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER	
	THE PROPRIETOR/PARTNERS/EXECUTIVE OFFICERS ARE: <input type="checkbox"/> INCL <input type="checkbox"/> EXCL				EL EACH ACCIDENT \$ 1,000,000	
					EL DISEASE-POLICY LIMIT \$ 1,000,000	
					EL DISEASE-EACH EMPLOYEE \$ 1,000,000	
	OTHER					

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS

THE CERTIFICATE HOLDER IS INCLUDED AS AN ADDITIONAL INSURED FOR LIABILITY, BUT ONLY AS RESPECTS THEIR SIGNED WRITTEN CONTRACT/AGREEMENT WITH MCKESSON CORPORATION AND/OR ITS SUBSIDIARIES.

CERTIFICATE HOLDER

THE COUNTY OF HIDALGO
100 E. CANO, 4TH FLOOR - ADMINISTRATION BLDG.
EDINBURG, TX 78539

CANCELLATION

SHOULD ANY OF THE POLICIES DESCRIBED HEREIN BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE INSURER AFFORDING COVERAGE WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED HEREIN, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER AFFORDING COVERAGE, ITS AGENTS OR REPRESENTATIVES, OR THE ISSUER OF THIS CERTIFICATE.

MARSH USA INC.
BY: Chris D Ambra

Chris D Ambra

MM1(3/02)

VALID AS OF: 07/18/07