



Hidalgo County Purchasing Department  
2812 S. Business Highway 281  
New Administration Building  
Edinburg, Texas 78539  
(956) 318-2626/ Fax: (956) 318-2629

May 20, 2010

Phillips & Jordan, Inc.  
Attn: Mike Harwood  
191 P & J Road  
Robbinsville, NC 28771

Via: Certified Mail #7099-3220-0002-8758  
Email: mharwood@pandj.com

Re: Extension Of Agreement No: C-09-003-07-21  
"Emergency Debris Management Services Contract"

Dear Ms. Callaway:

Hidalgo County Purchasing Department will be requesting Commissioners' Court to consider the County's sole option to exercise its' one (1) year extension as provided under page 1-#2 under Term. Extension will be at the same rates, terms and conditions. Said extended agreement will be effective from July 21, 2010 thru July 20, 2011.

This notice will be sent via certified mail as well as by email, please forward back this acknowledge receipt of notice of such request in order to proceed forward in placement on the Commissioners' Court meeting of Tuesday, May 25, 2010 for discussion, consideration and action, by signing below and returning to the Purchasing Department, by no later than 11:00 a.m., Monday, May 24, 2010, via facsimile to (956) 956-318-2629 or email to: evangelina.garcia@co.hidalgo.tx.us so as to meet the agenda request form deadlines.

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

Date: \_\_\_\_\_

Additionally, we are requesting your company provide an updated certificate of insurance as required through Hidalgo County's Request for (Bid, Quote, Proposal, Statement of Qualification), if applicable.

Should you have any questions or require additional information, please do not hesitate to contact me at (956) 318-2626. Your cooperation in this matter is greatly appreciated and we hope your company continues its business relationship with Hidalgo County.

Sincerely,

  
Vangie Y. Garcia, Contract's Manager  
Hidalgo County Purchasing Department

## Emergency Debris Management Services

### CONTRACT

THIS Emergency Debris Management Services Contract ("Agreement") is entered into by and between Phillips & Jordan, Inc. (Primary) ("Contractor") and the County of Hidalgo, Texas ("County").

WHEREAS Contractor has proposed to provide Emergency Debris Management Services in response to the:

- a. H-GACBuy Request for Proposals (Proposal DR01-08) ("Proposal"), dated October 11, 2007,
- b. H-GAC Disaster Debris Clearance and Removal Services End User Service Request Form and Standard Services Checklist ("Form"), dated April 27, 2009,
- c. and Contractor Pricing Worksheet ("Worksheet");

in accordance with Proposal, Form, and Worksheet (together "Proposal Package") and Terms and Conditions, which are incorporated and attached as Exhibits A, B, and C, respectively;

WHEREAS the County has determined Contractor to be a best value bidder;

NOW, THEREFORE, Contractor and County enter into this Agreement and agree as follows:

1. **Services.** Contractor will perform Emergency Debris Management Services in accordance with the Terms and Conditions of the Proposal.

2. **Term.** This Agreement is for twelve (12) months from notification by the County to the Contractor to commence and may be extended as an **option** and **sole discretion** of the County for an additional one (1) year, unless this Contract is terminated pursuant to the provisions herein, whichever occurs first.

Hidalgo County will award contract to a "Primary", "Secondary" and "Tertiary" for services to be rendered through effective period of this contract. In situations when the "Primary" vendor does not comply with the specifications, requirements, terms, conditions, obligations contained within this proposed contract, Hidalgo County reserves the right to seek services from the "Secondary" vendor. In such event, County shall charge the "Primary" vendor the difference for any additional cost of such service.

If "Secondary" vendor does not comply with the specifications, requirements, term, conditions, obligations contained within this proposed contract, Hidalgo County reserves the right to seek services from the "Tertiary" vendor. In such event, County shall charge the "Secondary" vendor the difference for any additional cost of such service.

Furthermore, if "Secondary" vendor does not comply with the specifications, requirements, term, conditions, obligations contained within this proposed contract, Hidalgo County reserves the

right to seek services from the "Tertiary" vendor. In such event, County shall charge the "Secondary" vendor the difference for any additional cost of such service.

3. **Contract Administrator.** The Contract Administrator designated by the County is responsible for approval of all phases of performance and operations under this Agreement, including deductions for non-performance and authorizations for payment. All of the Contractor's notices or communications regarding this Agreement must be directed to the Contract Administrator, who is the County Judge.

4. **Independent Contractor.** Contractor will perform the services hereunder as an independent contractor and will furnish such services in its own manner and method, and under no circumstances or conditions shall any agent, servant, or employee of the Contractor be considered an employee of the County.

5. **Non-Exclusive Contract/Additional Services.** Contractor agrees and understands that the Agreement shall not be construed as an exclusive arrangement and further agrees that the County, at any time, may secure similar or identical services at its sole options.

6. **Insurance.** Before activities can begin under this Agreement, the Contractor's insurance company(s) shall deliver a Certificate of Insurance, as proof of the required coverages, to the Contract Administrator. Additionally, the Certificate must state that the County will be given at least thirty (30) days notice, by certified mail, of cancellation, material change in coverages, or intent not to renew any of the policies. The County must be named as an Additional Insured. The County must be given copies of all insurance policies within fifteen (15) days of the County's written request.

7. **Assignment.** No assignment of this Agreement or any right or interest therein by the Contractor is effective unless the County first gives its written consent to such assignment. The performance of this Agreement by the Contractor is of the essence of this Agreement and the County's right to withhold consent to such assignment is within the sole discretion of the County on any ground whatsoever.

8. **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 ninety (90) 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).

9. **Waiver.** No waiver of any breach of any term or condition of this Agreement, or Proposal, or the Contractor's proposal offer to the Proposal and Form waives any subsequent breach of the same.

10. **Compliance with Laws.** This Agreement is subject to all Federal Laws and laws of the State of Texas. All duties of the parties will be performed in the County. The applicable law

for any legal disputes arising out of this Agreement is the law of The State Of Texas and venue for such disputes is the appropriate district, county, or justice court in and for Hidalgo County.

11. **Subcontractors.** The Contractor may use subcontractors in connection with the work performed under this Agreement. When using subcontractors, however, the Contractor must obtain prior written approval from the County. In using subcontractors, the Contractor is responsible for all their acts and omissions to the same extent as if the subcontractor and its employees were employees of the Contractor. All requirements set forth as part of this Agreement are applicable to all subcontractors and their employees to the same extent as if the Contractor and its employees had performed the services.

12. **Amendments.** This Agreement may be amended only by written Agreement duly authorized by the parties hereto and signed by the parties.

13. **Termination.** The County may terminate this Agreement for Contractor's failure to perform the services specified in Proposal. Failure to keep all insurance policies in force for the entire term of this Agreement is grounds for termination. The Contract must give the Contractor five (5) work days written notice of the breach and set out a reasonable opportunity to cure. If the Contractor has not cured within the cure period, the County may terminate this Agreement immediately thereafter.

Alternatively, the County may terminate this Agreement for no reason upon twenty (20) days written notice to the Contractor. However, the County may terminate the Agreement on twenty-four (24) hours written notice to the Contractor for failure to pay or provide proof of payment of taxes as set out herein.

14. **Taxes.** The Contractor covenants to pay payroll taxes, Medicare taxes, FICA taxes, unemployment taxes and all other related taxes according to Circular E Employer's Tax Guide, Publication 15, as it may be amended. Upon request, the County shall be provided proof of payment of these taxes within fifteen (15) days of such request. Failure to pay or provide proof of payment is grounds for the County to immediately terminate this Agreement.

15. **Drug Policy.** The Contractor must adopt a Drug Free Workplace and drug testing policy that substantially conforms to the County's policy. The County has a zero-tolerance drug policy.

16. **Violence Policy.** The Contractor must adopt a Violence in the Workplace and related hiring policy that substantially conforms to the County's policy. The County has a zero-tolerance violence in the workplace policy.

17. **Notice.** Notice may be given by fax, hand delivery, or certified mail, postage prepaid, and is received on the day faxed or hand-delivered and on the third (3<sup>rd</sup>) day after deposit if sent certified mail.

Notice shall be sent as follows:

IF TO COUNTY:  
County of Hidalgo  
Attention: Purchasing Department  
2802 S. Business Hwy. 281  
Edinburg, TX 78539  
Phone: (956) 318-2626  
Fax: (956) 318-2629

IF TO CONTRACTOR:  
Phillips & Jordan, Inc. (Primary)  
Attn: Mike Harwood  
191 P & J Road  
Robbinsville, North Carolina 28771  
(828)-479-3371

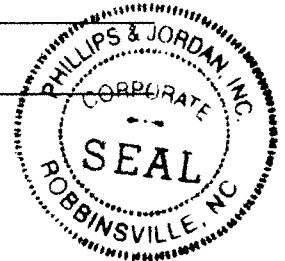
18. CONTRACTOR AGREES TO INDEMNIFY, HOLD HARMLESS AND DEFEND THE COUNTY OF HIDALGO AND ITS ELECTED OFFICIALS OFFICERS, EMPLOYEES AND AGENTS (INDEMNITIEES) FROM AND AGAINST ANY AND ALL LIABILITY, LOSS, CLAIMS, DEMANDS, SUITS AND CAUSES OF ACTION OF ANY NATURE ON ACCOUNT OF DEATH, PERSONAL INJURIES, PROPOERTY LOSS OR DAMAGE OR ANY OTHER KIND OF DAMAGE, INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS, ATTORNEYS' FEES AND EXPERT WITNESS FEES WHICH ARISE OR ARE CLAIMED TO ARISE OUT OF, OR IN CONNECTION WTH, THIS CONTRACT OR THE PERFORMANCE OF THIS CONTRACT, REGARDLESS OF WHETHER THE INJURIES, DEATH OR DAMAGES ARE CAUSED OR ARE CLAIMED TO BE CAUSED BY THE CONCURRENT OR CONTRIBUTING NEGLIGENCE OF INDEMNITEES, BUT NOT BY THE SOLE NEGLIGENCE OF INDEMNITEES UNMIXED WITH THE FAULT OF ANY OTHER PERSON OR GROUP. CONTRACTOR MUST, AT ITS OWN EXPENSE, INVESTIGATE ALL CLAIMS AND DEMANDS, ATTEND TO THEIR SETTLEMENT OR OTHER DISPOSITION, DEFEND ALL ACTIONS BASED THEREON WITH COUNSEL REASONABLY SATISFACTORY TO INDEMNITEES AND PAY ALL CHARGES OF ATTORNEY AND ALL OTHER COSTS AND EXPENSES OF ANY KIND ARISING FROM ANY OF SAID LIABILITY, DAMAGE, LOSS, CLAIMS, DEMANDS OR ACTIONS.

SIGNED this 22<sup>nd</sup> day of <sup>Sept.</sup> July, 2009.

Contractor: Phillips and Jordan, Inc

By: [Signature]  
Edad Satterfield

Title: Asst. Vice President



COUNTY OF HIDALGO ("COUNTY")

[Signature]  
JUAN DE DIOS J.D. SALINAS, III  
County Judge

ATTEST:

[Signature]  
Arturo Guajardo Jr., County Clerk  
Approved As To Form: \_\_\_\_\_

Approved By Commissioners' Court: 7/21/09

Approved As To Form Atlas & Hall, LLP

Approved By Commissioners' Court: \_\_\_\_\_

By: [Signature]  
Stephen L. Cram

- Exhibit A: H-GAC Disaster Debris Clearance and Removal Services End User Service Request and Requested Services Checklist Form
- Exhibit B: H-GAC Buy Request for Proposals (Proposal DR01-08)
- Exhibit C: Contractor Pricing Worksheet