



PURCHASING DEPARTMENT
County Of Hidalgo

MEMORANDUM

To: Juan Carranza, Chief Administrator
Hidalgo County Precinct No. 4
Attn: Rumaldo Munoz A.P Clerk via email: rumaldo.munoz@hidalgo.co.tx.us

From: Sandy Suarez, Buyer II
Hidalgo County Purchasing Dept.

Date: May 12, 2010

Re: RFB No.: 2010-214-00-00-SGS-HIDALGO COUNTY COMMISSIONER PRECINCT
NO. 4-"PIT RUN CALICHE"

For your **REVIEW and UPDATE**, attached you will find the current specifications for the above-referenced project. Please indicate if these specifications meet all your requirements by signing below and indicating your approval, approval with modifications and/or disapproval.

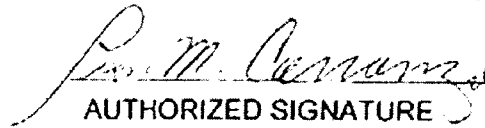
If you have any questions, please call me at (956) 318-2626 ext# 4860.

APPROVE <input checked="" type="checkbox"/>	DISAPPROVE <input type="checkbox"/>
APPROVED WITH MODIFICATIONS <input type="checkbox"/>	

FUNDS AVAILABILITY YES / NO / Other

(Specify) _____

BUDGET ACCOUNT #: 0-1204-431-00-124-007-0-673/731

	Juan M. Carranza	5/12/10
AUTHORIZED SIGNATURE	PRINTED NAME	DATE

SUBMIT THIS FORM TO THE HIDALGO COUNTY PURCHASING DEPARTMENT, VIA FAX TO (956) 292-7612 or e-mail: sandy.suarez@co.hidalgo.tx.us no later than Tuesday, May 18, 2010 @ 3:00p.m.

Enclosures

EXHIBIT "A"
SPECIFICATIONS/REQUIREMENTS

HIDALGO COUNTY COMMISSIONER
PRECINCT NO. 4
REQUEST FOR BIDS

"PIT RUN CALICHE BASE"

BID NO.: 2010-214-07-07-SGS

EXHIBIT "A"
HIDALGO COUNTY COMMISSIONER PRECINCT NO. 4

"PIT RUN CALICHE BASE"

Bid No. 2010-214-07-07-SGS

SPECIFICATIONS/REQUIREMENTS

Scope of Services:

Hidalgo County is soliciting competitive sealed bids for **Pit Run Caliche** for Hidalgo County Precinct No. 4. In accordance with the specifications/requirements specified herein and including, but not limited to all provisions set forth in the accompanying documentation. All material utilized will be on an "**As Needed Basis**" by the Precinct.

Specifications/Requirements:

The "Pit Run Caliche Base" should conform to the Texas Department of Transportation's (TXDOT), Standard Specifications for Construction of Highways, Streets and Bridges, 1995 Item 247, Type D material. The physical and engineering properties of the material should meet the following requirements:

A. The Maximum Size Aggregate allowed in the base material shall be two (2) inch; as determined by Gradation Analysis using square sieves.

B. ATTERBERG LIMITS

Maximum Liquid Limit.....40

Maximum Plasticity Index.....12

1. Pit Run Caliche will be on an "**As Needed Basis**" only. There is no guaranteed annual volume. It shall be agreed and understood that Hidalgo County Precinct No. 4 will purchase no more material than is needed.
2. Bid will be based on the low bid per ton basis as listed on bid page form. (Exhibit "B")
3. Awarded bidder(s) **shall have on site** at the Bidder's Pit location(s), an electronic or manual scale with a minimum of 70 ft. in length.
4. When requested, samples shall to furnished free of expense to Hidalgo County.
5. In the event that the material furnished does not meet all the above requirements (regardless of weather, tests acceptability, method of repair or other conditions) the County reserves the option to require the material supplier to replace or to reimburse the County for the unused portion of material found to be unsatisfactory.
6. Location is an important factor in evaluation of the bids, due to transportation costs which must be taken into consideration if material is picked up at the plant site.

TERMS AND CONDITIONS:

- 1.) The term of the requirements contract will be for a one (1) year period. Hidalgo County reserves the right to extend the contract for an additional one (1) year, under agreement with the same rates, terms and conditions.

- 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.) Hidalgo County reserves the right to award the bid to a sole bidder or to multiple bidders if the County determines it is in its best interest to do so.
- 4.) After Bid is awarded and successful awarded contractor defaults in meeting the general instructions to bidder(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 County shall charge the successful bidder the difference for any additional cost of such item.
- 5.) Any contract awarded to a successful bidder will be in effect until:
 - The contract expires.
 - Delivery acceptance of products and/or performance of services ordered, or
 - Terminated by County with thirty (30) days written notice prior to the cancellation.
- 6.) Insurance requirements for this project to be maintained through out the contract term (refer to Exhibit "C" for limits).
- 7.) Hidalgo County reserves the right to reject any/all bids, to waive any/all formalities or technicalities, or to accept the bid considered the best and most advantage to the County.
- 8.) Hidalgo County reserves the right to hold bids for a period of ninety (90) days without taking any action.
- 9.) All cost and expenses associated with the preparation and submission of (bids, proposals and/or quotes) shall be the responsibility of the bidder and no reimbursements for such charges or expenses shall be passed onto Hidalgo County.
- 10.) All applicable forms in this packet must be filled in its entirety and submitted with bid responses. In complete sections may be considered for probable cause of disqualification and/or non-compliance.
- 11) Have been in business for at least two years.
- 12.) The bidder awarded the contract shall not engage the services of a subcontractor without prior written consent of Hidalgo County. When requesting written consent from Hidalgo County to retain a subcontractor to perform services hereunder the successful bidder must present evidence and submit to the County that the successful bidder and the proposed subcontractor possess all necessary licenses and permits to perform the services described herein and that the successful bidder and the proposed subcontractor have obtained and submitted the required insurance coverage and policies as required by Hidalgo County.
- 13.) It is expressly understood and agreed that in case Hidalgo county should need Pit Run Caliche Base not available within the time frame needed from the successful vendor during the term of this contract, Hidalgo County reserves the right to purchase these items from other sources other than the successful vendor and shall not be in violation of any terms or conditions of said contract.

Further, Hidalgo County reserves the right to seek another vendor if at time; vendor's prices do not conform to public pricing.

- 14.) The successful bidder shall not deliver products or provide services without a Hidalgo County Purchase Order, signed by an authorized agent of the Hidalgo County Purchasing Department.

MARKET VOLATILITY AND UNIT PRICE ADJUSTMENTS:

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

5) **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, inquiries and clarifications regarding quotes, bids, proposals or statements of qualifications be addressed to, Martha L. Salazar, CPPB, Purchasing Agent, 2802 S. Bus. Hwy. 281, Edinburg, Tx 78539. **TELEPHONE INQUIRIES WILL NOT BE ACCEPTED**

ALL WRITTEN INQUIRIES WILL BE ACCEPTED VIA FACSIMILE NO LATER THAN, Wednesday, June 30, 2010 by 5:00 p.m. Responses to said inquiries will be sent to all applicants via facsimile by no later than Friday, July 02, 2010 by 5:00 P.M.

REQUEST FOR BIDS
HIDALGO COUNTY COMMISSIONER
PRECINCT NO. 4

“PIT RUN CALICHE BASE”

BID OPENING DATE:
JULY 07, 2010

Contact Person:

Martha L. Salazar, CPPB, Purchasing Agent
Hidalgo County Purchasing Department
Physical location: 2802 S. Business Highway 281 - Administration Building
Postal/Mailing: 2812 S. Business Highway 281
Edinburg, Texas 78539

956 318-2626

Form HCPD-03

1. Sealed bids will be received for **"HIDALGO COUNTY COMMISSIONER PRECINCT NO. 4-PIT RUN CALICHE BASE"** in accordance with the specifications attached as Exhibit "A" hereto. Bids should address all specifications set forth. Bidders may suggest substitutions of features which they feel would be in the best interest of Hidalgo County ("County"). Strong rationale must be presented for any deviation from the specifications. Hidalgo County reserves the right to reject the deviation and its effect on the overall bid.
2. One (1) original and Three (3) copies of all bids are required with the bidders name and return address clearly typed/printed on upper left hand corner and the proper notation clearly typed/printed on the lower left hand corner of the envelope and/or package: **"BID-2010-214-07-07-SGS-HIDALGO COUNTY COMMISSIONER PRECINCT NO. 4 - PIT RUN CALICHE BASE"** and in County's Purchasing Department, physical address: 2802 S. Business Hwy 281, mailing address 2812 S. Business 281 New Administration Building., Edinburg, Texas **on or before 9:30 a.m., WEDNESDAY, JULY 07, 2010.**

NO FACSIMILES OR LATE ARRIVALS WILL BE ACCEPTED. ANY RFB RECEIVED AFTER THAT TIME WILL NOT BE OPENED AND WILL BE RETURNED. OVERNIGHT MAIL MUST ALSO BE PROPERLY LABELED ON THE OUTSIDE OF EXPRESS ENVELOPE OR PACKAGE WITH REFERENCE TO "RFB NO.: 2010-214-07-07-SGS- HIDALGO COUNTY COMMISSIONER PRECINCT NO. 4- PIT RUN CALICHE BASE"

Hidalgo County reserves the right to refuse and reject any/all RFB and to waive any/all formalities or technicalities, or to accept the RFB considered the best and most advantageous to Hidalgo County

3. Hidalgo County reserves the right to: A.) separate and accept, or eliminate any item(s) listed under this bid that it deems necessary to accommodate budgetary and/or operational requirements; B.) reject any or all bids submitted and further reserves the right to design the evaluation criteria to be used in selecting the lowest and best bid for approval; and C.) award the bid to one bidder or to multiple bidders if the County determines it is in its best interest to do so."
4. The Bidder shall not substitute items named in the bid without the express written consent of Hidalgo County. Failure of the delivered item (s) to perform as specified or failure to meet the stated delivery schedule shall release Hidalgo County from all obligations to the contracting party with regard to the item(s) in question. In such event, County may elect to award the contract to the next-lowest responsible bidder, or to reject all bids and re-advertise.
5. For work to be performed at a County owned or operated location, each bidder shall, in its sole discretion, visit the job site before preparing the bid and thoroughly familiarize himself/herself with existing conditions. Bidder should take field dimensions and note all circumstances which affect the dollar amount of the bid.
6. Descriptive specifications are referenced in this document to indicate the general kind and quality of equipment desired by Hidalgo County. Due to various styles and models of equipment, bidders are required to include illustrations, specifications, explanation of warranties, and service data with their bid including catalogue numbers and any necessary references.

7. No bid may be withdrawn within thirty (30) days from the scheduled time to open bids.
8. Proposed prices are to remain firm for a minimum of ninety (90) days after bid opening.
9. Any interpretations, amendments, corrections or changes to this bid document must be in a written addendum and signed by the County Judge or his designee. Addenda will be mailed to all who are known to have received a copy of the Request for Bids. Bidders shall acknowledge receipt of all addenda as a part of their bid.
10. County reserves the right to accept or reject any or all bids.
11. Shipping costs are to be F.O.B. destination.(vendor pays all shipping cost an remains responsible until the County takes possession)
12. County is exempt from Federal Excise Tax, State Tax and Local Tax. Do Not include tax in cost figure. If it is determined that tax was included in the cost figures it will not be included in the tabulation of any awards. Tax exemption certificates will be furnished upon request.
13. Funds for this procurement have been provided through the County budget for this fiscal year only. County, on an annual basis, has the right to reconsider a contract during the budget process for ensuing years if financial resources of County are insufficient to meet the liabilities of said contract. The award of a bid or contract hereunder will not be construed to create a debt of the County which is payable out of funds beyond the current fiscal year.
14. Upon award and prior to execution of a contract, Sole Proprietorships are required to submit a copy of their social security cards to the Hidalgo County Auditor's Office in order to establish an account with the County. All awarded vendors must submit a completed W-9 and a copy of their Federal ID Number Certificate.
15. DELIVERY INSTRUCTIONS:

- . No deliveries accepted after 3:00 P.M., Monday-Friday.
- . At least seventy two (72) hours prior notice of delivery must be given to Martha L. Salazar, Purchasing Agent before delivery will be accepted.
- . If you need additional information call the office listed below:

Hidalgo County Purchasing Department
Martha L. Salazar, Purchasing Agent
(956) 318-2626

16. BILLING AND PAYMENT INSTRUCTIONS:

- . Invoices must include:
 - a) Name and address of successful bidder
 - b) Name and address of receiving department or official
 - c) Purchase Order Number (if any)
 - d) Notation - **"HIDALGO COUNTY COMMISSIONER PRECINCT NO. 4. – PIT RUN CALICHE BASE"** Descriptive information as to the items or services delivered, including product code, item number, quantity, etc.

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 therefore pending before any department or agency of the County.

. 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 the County, or any person associated therewith, as an inducement for the award of a subcontract or order.

. No public official shall have an interest in a contract awarded hereunder except in accordance with Tex. Loc. Govt. Code Chapter 171.

20. Disclosure of Conflict of Interest

. Effective January 1, 2006, Chapter 176 of the Texas Local Government Code requires that any vendor, person, consultant or contractor considering doing business with Hidalgo County ("the County") to disclose in the Conflict of Interest Questionnaire (the "CIQ") attached as Exhibit D, the vendor, person, consultant or contractor's affiliation or business relationship that might cause a conflict of interest with the County. By law, the CIQ must be filed with the Hidalgo County Clerk's Office no later than the seventh business day after the date the person becomes aware of facts that require that statement to be filed. The disclosure requirement applies to a person or business who contracts or seeks to contract with Hidalgo County for the sale or purchase of property, goods or service. Any purchase order or contract resulting from this process shall be considered null and void if the successful bidder fails to comply with Texas Local Government Code Chapter 176. Vendors, consultants, contractors and others who desire to conduct business with Hidalgo County are encouraged to refer to Texas Local Government Code Chapter 176 for the details of this law. An offense under Texas Local Government Code Chapter 176 is a Class C Misdemeanor.

Please Submit completed CIQ forms to the Hidalgo County Clerk's Office located at 100 N. Clossner, Edinburg, Texas 78539-Hidalgo County Courthouse

COMPLETION AND SUBMISSION OF FORM CIQ IS THE SOLE RESPONSIBILITY OF THE PROSPECTIVE BIDDER.

21. If, during the life of any contract or bid awarded, the successful bidder's net prices generally available to other customers for items awarded herein are reduced below the contracted price, it is understood and agreed that the benefits of such reduction shall be extended to County.
22. Bids, and all goods and services provided thereunder, shall comply with all federal, state and local laws concerning this type(s) of goods and/or services
23. Minimum Standards For Responsible Prospective Bidders: A prospective bidder must affirmatively demonstrate bidder's responsibility. A prospective bidder, by submitting a bid, represents to County that it meets the following requirements:
- . Possess or is able to obtain adequate financial resources as required to perform under the bid;
 - . Be able to comply with the required or proposed delivery schedule;
 - . Have a satisfactory record of performance;
 - . Have a satisfactory record of integrity and ethics;
 - . Be otherwise qualified and eligible to receive an award.

24. Successful bidder will pay or cause to be paid, without cost or expenses to County, all FICA, FUTA/SUTA and Federal Income Withholding Taxes of all employees, and all wages and benefits as required by Federal or State law. Successful bidder's officers, agents and/or employees will not be entitled to any benefits of an employee or elected official of County, including, but not limited to, benefits associated with County's civil service system.
25. Any contract award to a successful bidder will be in effect until (a) the contract expires, (b) delivery and acceptance of products, and/or performance of services ordered, or (c) terminated by County with thirty day's written notice prior to cancellation.
26. County reserves the right to enforce performance of any contract awarded hereunder in any manner prescribed by law or deemed to be in the best interest of the County in the event of breach or default by successful bidder; County reserves the right to terminate any contract immediately in the event a successful bidder fails to:
 - A. Meet schedules;
 - B. Pay any required fees or taxes; or
 - C. Otherwise perform in accordance with the specifications.
27. Successful bidder shall defend, indemnify and save harmless County and all its elected officials, officers, agents and employees from all suits, actions, or other claims of any character, name and description brought for or on account of any injuries or damages received or sustained by any person, persons, or property on account of any negligent act or fault of the successful bidder, or of any agent, employee, subcontractor or supplier of successful bidder in the execution of, or performance under, any contract which may result from bid award or which arises from any event or casualty happening on or within County premises themselves or happening upon or in any halls, elevators, entrances, stairways or approaches of or to such County facilities. Successful bidder shall pay any judgment with costs which may be obtained against County growing out of such injury or damages, and shall, upon request, provide a defense to County by counsel reasonably acceptable to County. Successful bidder's indemnity hereunder shall include, but is not limited to, claims relating to patent, copyright or trademark infringement, and the like, arising out of the goods and services provided by successful bidder.
28. Successful bidder shall warrant that all items/services shall conform with the specifications and/or all warranties provided under the Uniform Commercial Code and be free from all defects in material, workmanship and the like. Items supplied under a contract pursuant to this Request for Bids shall be subject to County's approval. Items found to be defective or not meeting specifications shall be replaced by successful bidder within two business days at no expense to County. Items not picked up within one (1) week after notification shall be deemed a donation to County and may be used or disposed of at County's discretion and without waiver of any other rights of County as to the item's nonconformity.
29. This document and any disputes arising hereunder shall be governed and construed according to the laws of the State of Texas, and will be performable exclusively in Hidalgo County, Texas.
30. The successful bidder shall not assign, sell, transfer or convey its rights under any awarded contract, in whole or in part, without the prior written consent of County

Bid
for
HIDALGO COUNTY COMMISSIONER PRECINCT NO. 4
"PIT RUN CALICHE BASE"
BID NO.: 2010-214-07-07-SGS

To: Martha L. Salazar, CPPB, Purchasing Agent
Hidalgo County Purchasing Department
2802 S. Bus. Hwy. 281
Edinburg, Texas 78539

In accordance with the Specifications, and subject to all laws and regulations of the United States and state and local laws, the undersigned bidder proposes and commits to furnish all labor, equipment, material, software and services as set forth in the documents hereinbefore mentioned. The undersigned bidder further agrees, upon acceptance of its bid, to execute a contract and/or Purchase Order issued by Hidalgo County for performing and completing the work described in the Specifications within the time stated and for the prices proposed in the documents attached hereto and made a part hereof.

Bidder acknowledges receipt of all of the pages of the documents referenced in the Invitation to Bid Checklist presented in connection with this procurement. Bidder understands that Hidalgo County reserves the right to reject any or all bids and further reserves the right to design the evaluation criteria to be used in selecting the lowest and best bid.

Bidder agrees that this bid shall be good and may not be withdrawn for a period of ninety (90) calendar days after the scheduled closing time for receiving bids, as contained in the Specifications.

Respectfully submitted,

Bidder:

Address:

By:

Printed Name:

Title:

REQUIREMENTS AGREEMENT
C-10-214-00-00

THIS AGREEMENT (the "Agreement") is entered into effective as of the ____ day of _____, 2010 by and between _____ ("Seller") and Hidalgo County, Texas ("Buyer").

WHEREAS, Buyer has solicited sealed bids for the supply of its requirements of Hidalgo County Precinct No. 4 for the "Pit Run Caliche Base" (on an as needed basis) (the "Product") as further described in Exhibit "A", Request for Bids (RFB) Procurement Packet as attached hereto and incorporated herein by reference for all purposes (the "RFB") for a period of one (1) year and;

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

WHEREAS, Buyer has determine that Seller has submitted the lowest and best bid to meet Buyer's requirements for certain of the Products, as herein after described.

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 and deliver to Buyer, all of the Products listed on Exhibit "B", which is attached hereto and incorporated herein by references, that Buyer may require for use by Buyer in Hidalgo County projects for a period of one (1) year, with the County's sole option to extend/renew for an additional one (1) year term based upon prior year's performance evaluation and contingent upon cost, terms and conditions remaining unchanged. Hidalgo County reserves the right to continue this bid for an additional sixty (60) day grace period, under the same rates, terms and conditions at the end of the contract term for unforeseen delays in award of new bid for the next contract term. This Contract shall commence on _____, 2010 and expire on _____, 2011 and it is agreed that the Products will meet the Specifications in the Request for Bids (RFB) Procurement Packet set forth in Exhibit "A" hereto.

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. 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: _____

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. **Termination.** County may terminate this Agreement at any time for any reason or no reason at all upon giving thirty (30) days written notice.

g. **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.

h. **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.

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

j. **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.

k. **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

l. **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.

m. **Insurance.** Company shall provide, to the extent it deems necessary, insurance in force on all persons connected with providing services under this Contract naming County as an additional insured, and shall furnish to County certificates of such insurance coverage Exhibit "C", which is attached hereto.

n. **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).

o. **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 therefore 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 By Commissioners Court: _____

COUNTY OF HIDALGO

ATTEST:

By: _____
Rene A. Ramirez, County Judge

Arturo Guajardo Jr., County Clerk

COMPANY:

By: _____

Printed Name: _____

Title: _____

APPROVED AS TO FORM:
Atlas & Hall, L.L.P.

Stephen L. Crain, Attorney

EXHIBIT "A"
REQUEST FOR BIDS (RFB)
PROCUREMENT PACKET

EXHIBIT "B"
BID PAGE

DRAFT

EXHIBIT "C"
CERTIFICATE OF INSURANCE