

**CONSTRUCTION
CONTRACT**

This Agreement entered into this **5th day of June, 2012** by and between **HIDALGO COUNTY URBAN COUNTY PROGRAM**, hereinafter called the "OWNER", acting herein through its **COUNTY JUDGE** and **The 5125 Company** (an individual) of **Mission**, State of Texas, hereinafter called "CONTRACTOR".

WITNESSETH

That for and in consideration of the payments and agreements hereinafter mentioned, to be made and performed by the OWNER, the CONTRACTOR hereby agrees with the OWNER to commence and complete the construction described as follows:

PROJECT NAME: Hidalgo County Precinct No. 4 – HUD CDBG-R Fike Pump Structure flood drainage improvements
PROJECT No.: 5010/5209-94-0309-5000-UCP-ML
PROJECT DESCRIPTION: installation of a drainage pump structure with appurtenances, pump housing, generator and the installation of a storm sewer line across Mile 17 Road with an endwall and headwall

hereinafter called the project, for the sum of **(\$427,144.45) – Four hundred twenty seven thousand one hundred forty four dollars and forty five cents** and all extra work in connection therewith, under the terms as stated in the General and Special Conditions of the Contract; and at his (its or their) own proper cost and expense to furnish all the materials, supplies, machinery, equipment, tools, superintendence, labor, insurance, and other accessories and services necessary to complete the said project in accordance with the conditions and prices stated in the Proposal, the General Conditions, Supplemental General Conditions and Special Conditions of the contract, the plans, which include all maps, plats, blue prints, and other drawings and printed or written explanatory matter thereof, the specifications and contract documents therefore as prepared by **Raul Sesin, Project Engineer**, and as enumerated in Paragraph 1 of the Supplemental General Conditions, all of which are made a part hereof and collectively evidence and constitute the contract.

The CONTRACTOR hereby agrees to commence work under this contract on or after a date to be specified in a written "Notice to Proceed" of the OWNER and to fully complete the project within **75** consecutive calendar days thereafter. The CONTRACTOR further agrees to pay, as liquidated damages, the sum of **(\$250.00) two hundred fifty dollars and zero cents** for each consecutive calendar day thereafter as hereinafter provided in Paragraph 19 of the General Conditions.

The OWNER agrees to pay the CONTRACTOR in current funds for the performance of the contract, subject to additions and deductions, as provided in the General Conditions of the contract, and to make payments on account thereof as provided in Paragraph 25, "Payments to Contractor", of the General Conditions.



**Hidalgo County
Planning
Department**

Raul E. Sesin, PE, CFM
Planning Administrator

Main Office

1304 S. 25th Street
Edinburg, Texas 78542
Phone (956) 318-2840
Fax (956) 318-2844

Engineering Projects Office

301 E. State Street
Pharr, Texas 78577
Phone (956) 318-2840
Fax (956) 318-2844

Precinct No. 1 Substation

1902 Joe Stephens Ave.
Weslaco, Texas 78596
Phone (956) 968-4734
Fax (956) 973-7850

Precinct No. 3 Substation

2401 N. Moorefield Rd.
Mission, Texas 78572
Phone (956) 205-7045
Fax (956) 205-7049

April 18, 2012

Honorable Commissioner Joseph Palacios
Hidalgo County Precinct No. 4
1051 N. Doolittle Road
Edinburg, Texas 78542

RE: Hidalgo County – Urban County Program
Hidalgo County Precinct No. 4 – HUD CDBG-R Fike Pump Structure - Flood
Drainage Improvements Project
Bid No.: 5010/5209-94-0309-5000-9400-UCP-ML

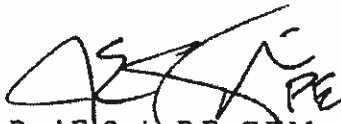
Dear Commissioner Palacios;

Bids were received and opened for the Hidalgo County Urban County, Hidalgo County Precinct No. 4 – HUD CDBG-R Fike Pump Structure - Flood Drainage Improvements Project, Bid No.: 5010/5209-94-0309-5000-9400-UCP-ML on January 25, 2012. A total of three bids were received with two contractors being low bidders for different items. The 5125 Company is the low bidder for the Base Bid with an amount of \$244,444.44, Alternate No. 1 bid of \$11,000.00, Alternate No. 2 bid of \$13,000.00, Alternate No. 3 bid of \$40,000.00, Alternate No. 4 bid of \$8,000.00, Alternate No. 5 bid of \$5,500.01, Alternate No. 6 bid of \$10,000.00, Alternate No. 7 bid of \$7,200.00. Saenz Utility Contractors, Ltd. is the low bidder for Alternate No. 9 bid with an amount of \$40,000.00. However, Saenz Utility Contractors, Ltd. informed us on April 10, 2012 via email that they will be unable to execute the contract for their portion of the project. They state financial hardship as the reason for not being able to perform their awarded part since it was bid as a whole project and they do not have enough money to satisfactorily complete the alternate as a stand-alone project. Therefore, due to the aforementioned notification, we recommend awarding the entire project to The 5125 Company for the base bid and Alternate No. 1, No. 2, No. 3, No. 4, No. 5, No. 6, No. 7 and No. 9 in the amount of \$427,144.45. Attached is a copy of the bid tabulation for your review.

The project consists of the installation of a drainage pump structure with appurtenances, pump housing, generator, and the installation of a storm sewer line across Mile 17 Road with an endwall and headwall.

If you have any questions or require further information, please feel free to contact me at your convenience.

Respectfully,
HIDALGO COUNTY PLANNING DEPARTMENT


Raul E. Sesin, P.E., C.F.M.
Planning Administrator

HIDALGO COUNTY PURCHASING DEPARTMENT

BID TABULATION SHEET

DEPARTMENT NAME: HIDALGO COUNTY – URBAN COUNTY PROGRAM

BID OPENING DATE: January 25, 2012

BID OPENING TIME: 9:30 A.M.

DESCRIPTION OF BID: "Hidalgo County Precinct No. 4 – HUD CDBG-R File Pump Station Flood Drainage Improvements Project"

BID NO: 5010/5209-94-0309-5000-9400-UCP-ML

PROCUREMENT SPECIALIST:

RFB NO.	Name of Company	Base Bid Price	Alternate No. 1 Price	Alternate No. 2 Price	Alternate No. 3 Price	Alternate No. 4 Price	Alternate No. 5 Price	Alternate No. 6 Price	Alternate No. 7 Price	Alternate No. 8 Price	Alternate No. 9 Price	Alternate No. 10 Price	Bid Bond/ Cashier's Check Included
1.	Saenz Utility Contractors, Ltd	\$393,092.00	\$85,000.00	\$35,000.00	\$75,000.00	\$11,040.00	\$11,115.00	\$13,940.00	\$17,080.00	\$80,000.00	\$40,000.00	\$10,000.00	Included
2.	Tropical Contracting, LLC	\$319,358.00	\$26,000.00	\$32,500.00	\$52,000.00	\$13,000.00	\$11,245.00	\$16,575.00	\$25,220.00	\$115,500.00	\$80,500.00	\$26,000.00	Included
3.	The S125 Company	244,444.44	\$11,000.00	\$13,000.00	\$40,000.00	\$8,000.00	\$5,500.01	\$10,000.00	\$7,200.00	\$128,000.00	\$88,000.00	\$21,000.00	Included
4.													
5.													

***TYPED AS READ AT BID OPENING, AMOUNTS NOT VERIFIED/CALCULATED.**

HIDALGO COUNTY PURCHASING DEPARTMENT BID TABULATION SHEET

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BID NO: 5010/5209-94-0309-5000-9400-UCP-ML

PROCUREMENT SPECIALIST:

RFB NO.	Name of Company	Base Bid Price	Alternate No. 1 Price	Alternate No. 2 Price	Alternate No. 3 Price	Alternate No. 4 Price	Alternate No. 5 Price	Alternate No. 6 Price	Alternate No. 7 Price	Alternate No. 8 Price	Alternate No. 9 Price	Alternate No. 10 Price	Bid Bond/ Cashier's Check Included
1.	Saenz Utility Contractors, Ltd	\$393,092.00	\$85,000.00	\$35,000.00	\$75,000.00	\$11,040.00	\$11,115.00	\$13,940.00	\$17,080.00	\$87,000.00	\$40,000.00	\$10,000.00	Included
2.	Tropical Contracting, LLC	\$319,358.00	\$26,000.00	\$32,500.00	\$52,000.00	\$13,000.00	\$11,245.00	\$16,575.00	\$25,220.00	\$112,000.00	\$80,500.00	\$25,000.00	Included
3.	The 5125 Company	244,444.44	\$11,000.00	\$13,000.00	\$40,000.00	\$8,000.00	\$5,500.01	\$10,000.00	\$7,200.00	\$12,000.00	\$88,000.00	\$21,000.00	Included
4.	<div style="border: 1px solid black; padding: 5px; display: inline-block;"> REVIEWED By Oscar Garza at 4:11 pm, Apr 12, 2012 </div>												
5.													

Even though this is the lowest bid, when tabulated the total is higher than The 5125 Company

Rejected Bid; cannot use this bid for other vendor

Total amount of contract to award will be \$427,144.45 with a quantitative adjustment and/or a PO decrease with a letter of confirmation from the company.

*TYPED AS READ AT BID OPENING, AMOUNTS NOT VERIFIED/CALC

LEGAL NOTICE

RFB No: 5010/5209-94-0309-5000-9400-UCP-ML

1. Sealed bids will be received for "HIDALGO COUNTY PRECINCT NO. 4 - HUD CDBG-R FIKE PUMP STRUCTURE - FLOOD DRAINAGE IMPROVEMENTS PROJECT"

in accordance with the specifications attached as Exhibit "A" hereto. Bids should address all specifications set forth.

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:

"RFB No: 5010/5209-94-0309-5000-9400-UCP-ML "HIDALGO COUNTY PRECINCT NO. 4 - HUD CDBG-R FIKE PUMP STRUCTURE - FLOOD DRAINAGE IMPROVEMENTS PROJECT" and in County's Purchasing Department, 2802 So. Bus. Hwy 281, Administration Building, Postal: 2812 So. Bus. Hwy 281, Edinburg, Texas 78539, on or before 9:30 a.m., WEDNESDAY, January 25, 2011. 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: 5010/5209-94-0309-5000-9400-UCP-ML "HIDALGO COUNTY PRECINCT NO. 4 - HUD CDBG-R FIKE PUMP STRUCTURE - FLOOD DRAINAGE IMPROVEMENTS PROJECT"

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.

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

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. No bid may be withdrawn within thirty (90) days from the scheduled time to open bids.

7. 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

Monica Leal

From: Oscar Garza [oscarg.garza@co.hidalgo.tx.us]
Sent: Thursday, April 12, 2012 4:41 PM
To: 'Martha Salazar'; 'Raul Sesin'
Cc: 'Darlene Betancourt'; 'Nora D Cavazos'; 'Monica Leal'
Subject: RE: Precinct No. 4 - CDBG-R Fike Pump Structure

Attachments: Email from Saenz Utility Altenate Cancellation.pdf; Reviewed Tabulation Chart 041212.pdf

Mr. Sesin, in reference to the current situation with Saenz Utility Contractors, Ltd UCP is to place an agenda item to rescind action of award to Saenz Utility Contractors, as requested in their email and also will have the revised awarded amount to The 5125 Company as outlined in the Tabulation Chart.

Ms. Monica Leal, please make a copy of item #2 of the Legal Notice for your backup as well.

After review The 5125 Company is still the best valued bid with the prices presented on their bid.

Should you have any questions, please let me know.

Thank you!



Oscar Garza, Program Coordinator
2802 So Bus. Hwy 281
Postal Mailing Address:
2812 So. Bus 281 & Corner of Canton Rd.
Edinburg, TX 78539
Phone: 956-318-2626 Ext. 4857
Fax: 956-292-7612
oscarg.garza@co.hidalgo.tx.us

 Is it really necessary to print this email?

From: Martha Salazar [mailto:martha.salazar@co.hidalgo.tx.us]
Sent: Thursday, April 12, 2012 10:25 AM
To: 'Oscar Garza'
Cc: 'Darlene Betancourt'
Subject: FW: Precinct No. 4 - CDBG-R Fike Pump Structure
Importance: High

Mr. Garza:
I just spoke to Mr. Crain about this project. I need to give you some direction in order to respond to Ms. Monica Leal.
Marty

From: Steve Crain [mailto:scrain@atlashall.com]
Sent: Thursday, April 12, 2012 7:36 AM
To: 'Martha Salazar'
Subject: RE: Precinct No. 4 - CDBG-R Fike Pump Structure

Marty: Please call me.

4/18/2012

From: Martha Salazar [<mailto:martha.salazar@co.hidalgo.tx.us>]
Sent: Wednesday, April 11, 2012 3:53 PM
To: 'Steve Crain'
Subject: FW: Precinct No. 4 - CDBG-R Fike Pump Structure
Importance: High

Mr. Crain:
You indicated you needed all the facts before you could opine. If necessary the original information is below that Mr. Sesin had provided.
Thanks,
Marty


From: Oscar Garza [<mailto:oscarg.garza@co.hidalgo.tx.us>]
Sent: Wednesday, April 11, 2012 3:36 PM
To: 'Martha Salazar'
Cc: 'Darlene Betancourt'
Subject: RE: Precinct No. 4 - CDBG-R Fike Pump Structure

Attached are the documents as requested, I have highlighted items of concern for your review.

Thank you!



Oscar Garza, Program Coordinator
2802 So Bus. Hwy 281
Postal Mailing Address:
2812 So. Bus 281 & Corner of Canton Rd.
Edinburg, TX 78539
Phone: 956-318-2626 Ext. 4857
Fax: 956-292-7612
oscarg.garza@co.hidalgo.tx.us

 Is it really necessary to print this email?

From: Martha Salazar [<mailto:martha.salazar@co.hidalgo.tx.us>]
Sent: Saturday, April 07, 2012 5:03 PM
To: 'Oscar Garza'
Cc: 'Darlene Betancourt'
Subject: FW: Precinct No. 4 - CDBG-R Fike Pump Structure
Importance: High

Mr. Garza:
Please read all and then proceed to provide the information to Mr. Crain:
Marty

From: Steve Crain [<mailto:scrain@atlashall.com>]
Sent: Friday, April 06, 2012 8:07 AM
To: 'Martha Salazar'
Subject: RE: Precinct No. 4 - CDBG-R Fike Pump Structure

4/18/2012

I need all of the facts to analyze possible actions. Thanks.

From: Martha Salazar [<mailto:martha.salazar@co.hidalgo.tx.us>]
Sent: Thursday, April 05, 2012 4:18 PM
To: 'Steve Crain'
Subject: RE: Precinct No. 4 - CDBG-R Fike Pump Structure
Importance: High

That is what I understand from Raul Sesin's recap of the project.

From: Steve Crain [<mailto:scrain@atlashall.com>]
Sent: Thursday, April 05, 2012 3:48 PM
To: 'Martha Salazar'
Subject: RE: Precinct No. 4 - CDBG-R Fike Pump Structure

Was it awarded to both vendors with Saenz only being awarded Alternate 9?

From: Martha Salazar [<mailto:martha.salazar@co.hidalgo.tx.us>]
Sent: Thursday, April 05, 2012 2:11 PM
To: 'Raul Sesin'; 'Monica Leal'; 'Oscar Garza'
Cc: 'Steve Crain'; 'Nora D Cavazos'; 'Steven Cruz'
Subject: RE: Precinct No. 4 - CDBG-R Fike Pump Structure
Importance: High

To All:

I will have Mr. Oscar Garza from our staff obtain the necessary supporting documentation from Ms. Monica and thereafter forward to Mr. Crain for his review and comment.
Marty S.

From: Raul Sesin [<mailto:Raul.Sesin@co.hidalgo.tx.us>]
Sent: Thursday, April 05, 2012 2:04 PM
To: 'Monica Leal'
Cc: Steve Crain; 'Martha Salazar'; 'Nora D Cavazos'; 'Steven Cruz'
Subject: RE: Precinct No. 4 - CDBG-R Fike Pump Structure

Good Afternoon Ms. Leal,

I have not had this happen to me on any of my projects but I presume the only thing to do is review the second option with Precinct 4 which is to award the pumps to 5125. I believe the County can collect the bid bond from Saenz as well. This would take Commissioner's Court action.

I am sending a copy of this email to our purchasing Department and legal Counsel to get some guidance on how to proceed.

Steve and Marty,

Below is a summary of the Project:

The project name is Hidalgo County Precinct No. 4 HUD CDBG-R Fike Pump Structure-Flood Drainage Improvements Project.

Bids were received on January 25, 2012.

4/18/2012

We received three bids for the project.

- The 5125 Company was the low bidder on the base bid and Alternates 1 through 7.
- Saenz Utility Contractors, LTD. was the low bidder for Alternate No. 9.

The project was awarded by Commissioner's Court on February 21, 2012 to both vendors.

Now, Saenz does not want to honor their bid.

The next low bidder for Alternate No. 9 is Tropical Contracting, LLC.

Please advise as to what options the County has to move this project along.

Thank you.



Raul E. Sese, PE, CFM
Planning Administrator



Please refrain from printing this email unless completely necessary. Go Green!

From: Monica Leal [<mailto:monica.leal@ucp.co.hidalgo.tx.us>]

Sent: Thursday, April 05, 2012 9:39 AM

To: 'Raul Sese'

Cc: 'Nora D Cavazos'

Subject: Precinct No. 4 - CDBG-R Fike Pump Structure

Good Morning Mr. Sese,

I spoke with Jose from Saenz Utility regarding the contracts we provided to them for signature. They are not going to go thru with this project. What can we do at this point?

Monica Leal
Program Coordinator 1
Urban County Program
956-787-8127 office
956-787-5291 fax

4/18/2012

Monica Leal

From: Pedro Gonzalez [pgonzalez1502@gmail.com]
Sent: Wednesday, April 18, 2012 9:54 AM
To: Monica Leal
Subject: Re: RE:

Our physical address is 216 E. 4th St. Elsa Tx 78543..
Contacts: Pete Gonzalez (956)330-5090
Raul Arispe (956) 289-9370

Peter Gonzalez III

On Apr 18, 2012, at 8:52 AM, Monica Leal <monica.leal@ucp.co.hidalgo.tx.us> wrote:

Yes it did. I will be sending a letter with the PO number to Casco. Can you please provide me with telephone numbers for the individuals you would like to be contacted in case of any questions? Also, physical address for the Fire Department.

Monica Leal
Program Coordinator 1
Urban County Program
956-787-8127 office
956-787-5291 fax

From: Pedro Gonzalez [mailto:pgonzalez1502@gmail.com]
Sent: Wednesday, April 18, 2012 8:44 AM
To: monica.leal@ucp.co.hidalgo.tx.us
Subject:

Monica,
Just checking in if everything went through at Commissioner's Court with our allocation for gear. Please advise what the next step is, please..

Pete Gonzalez III- 1st. Asst. Chief/Cert.Coordinator Elsa V.F.D.

From: Raul
To: oscar.garza@co.hidalgo.tx.us
Cc: [Nora Cavazos](mailto:Nora.Cavazos)
Subject: Fwd: Fike Pump Structure project
Date: Thursday, April 12, 2012 11:16:32 AM

Raul E. Segin, P.E.
Sent from my iPhone
956-566-1974

Begin forwarded message:

From: "Monica Leal" <monica.leal@ucp.co.hidalgo.tx.us>
Date: April 10, 2012 11:26:30 AM CDT
To: "'Raul Segin'" <Raul.Segin@co.hidalgo.tx.us>
Cc: "'Nora D Cavazos'" <nora.cavazos@hchd.org>
Subject: **FW: Fike Pump Structure project**

Mr. Segin,

I just received the email below from Saenz Utility Contractors, Ltd where they are informing us that they will not be able to continue with the above mentioned project.

Monica Leal
Program Coordinator 1
Urban County Program
956-787-8127 office
956-787-5291 fax

From: Jose L. Saenz [<mailto:jsaenz@saenzutility.com>]
Sent: Tuesday, April 10, 2012 11:07 AM
To: 'Monica Leal'
Subject: Fike Pump Structure project

Monica,

I regret to inform you that we will be unable to sign and execute the contract for the Hidalgo County Precinct No. 4 HUD CDBG-R Fike Pump Structure-Flood Drainage Improvements Project. Unfortunately it is just financially difficult for us to perform only the alternate portion of the contract that is being awarded to us. The project was bid as a whole with the idea that the base bid would be primary and alternates would be added to or removed from the contract as desired. As bid we simply do not have enough money to satisfactorily complete the alternate as a stand-alone project.

Let me know if you have any questions or concerns or need anything else from us.

Cordially,
Jose L. Saenz



PH: (956) 262.8506

FAX: (956) 262.6493

THE COMPANY

1008 DOHERTY
MISSION, TX. 78572

P H. (9 5 6) 5 8 3 - 5 1 2 5

F A X (9 5 6) 5 8 5 - 1 6 3 3

MEMORANDUM

TO: Monica Leal, Hidalgo County Urban County Program

FROM: Pat Espericueta, The 5125 Company

DATE: April 24, 2012

PROJECT: Hidalgo County Precinct No. 4 - HUD CDBG-R Fike Pump Structure -
Flood Drainage Improvements Project
Project #: 5010/5209-94-0309-5000-9400-UCP-ML

<input type="checkbox"/> URGENT	<input checked="" type="checkbox"/> FOR REVIEW	<input type="checkbox"/> PLEASE COMMENT	<input checked="" type="checkbox"/> PLEASE REPLY
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Greetings Ms. Leal,

Please consider this our acceptance of the additional work called for in Alternate No. 9 for the project referenced above. If awarded to our company, we will be more than happy to add that bid item to our contract and conduct all the work in accordance with the contract plans and specifications.

Respectfully,

Pat Espericueta

President