

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

**MEMORANDUM**  
 (APPROVAL OF SPECIFICATIONS)

TO: All Precincts  
 Hidalgo County Departments

FROM: Sandy Suarez, Buyer II  
 Hidalgo County Purchasing Department

DATE: January 24, 2013

RE: MEMORANDUM OF APPROVAL OF SPECIFICATIONS  
 Bid No. 2013-054-00-00 -SGS for HIDALGO COUNTY (All Funding Sources) -  
 "MS-1 EMULSIFIED ASPHALT"

Please review the following SPECIFICATIONS and verify if all requirements are met by signing below and indicating APPROVE (or) DISAPPROVE. If specification is NOT met, make any/and all necessary modifications and return the revised copy to the designated Buyer in the Purchasing Department.

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	

FUNDS AVAILABILITY:  YES /  NO /  Other

(Specify) \_\_\_\_\_

BUDGET ACCOUNT #: 3-1200-431-00-121-005-673

*[Handwritten Signature]*      PAUL LOZANO      Pct. 1      1-24-13  
 AUTHORIZED SIGNATURE      PRINTED NAME      DEPARTMENT      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](mailto:sandy.suarez@co.hidalgo.tx.us) by no later than JANUARY 29, @ 10:00 A.M.

Enclosures

*Pct 1  
01/24*



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

FUNDS AVAILABILITY: \_\_\_\_\_ YES / \_\_\_\_\_ NO/ \_\_\_\_\_ Other

(Specify) \_\_\_\_\_

BUDGET ACCOUNT #: 3-1200-431-00-122-006-0-673

<i>Ricardo Cuellar</i>	<i>RICARDO CUELLAR</i>	<i>PEB</i>	<i>1/29/13</i>
AUTHORIZED SIGNATURE	PRINTED NAME	DEPARTMENT	DATE

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*PEB*  
*1/29*



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APPROVE <i>Sandy Suarez</i>	DISAPPROVE
APPROVED WITH MODIFICATIONS	

FUNDS AVAILABILITY:  YES /  NO /  Other

(Specify) \_\_\_\_\_

BUDGET ACCOUNT #: 3-1200-431-00-123-005-0-731

<i>J. A. Flores</i>	Pet # 3	1/25/13
AUTHORIZED SIGNATURE	DEPARTMENT	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](mailto:sandy.suarez@co.hidalgo.tx.us) by no later than JANUARY 29, @ 10:00 A.M.

Enclosures

*Pet 3  
01/28*



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

**MEMORANDUM**  
 (APPROVAL OF SPECIFICATIONS)

TO: All Precincts  
 Hidalgo County Departments

FROM: Sandy Suarez, Buyer II  
 Hidalgo County Purchasing Department

DATE: January 24, 2013

RE: MEMORANDUM OF APPROVAL OF SPECIFICATIONS  
 Bid No. 2013-054-00-00 -SGS for HIDALGO COUNTY (All Funding Sources) -  
 "MS-I EMULSIFIED ASPHALT"

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

FUNDS AVAILABILITY:  YES /  NO /  Other

(Specify) \_\_\_\_\_

BUDGET ACCOUNT #: 3-1200-431-00-124-~~HT~~-007-0-731/673

	Roman Rodriguez	Roads/bridge	1/30/13
AUTHORIZED SIGNATURE	PRINTED NAME	DEPARTMENT	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](mailto:sandy.suarez@co.hidalgo.tx.us) by no later than JANUARY 29, @ 10:00 A.M.**

Enclosures

*Page 4  
01/30*

<b>Bid No: 2013-052-00-00-SGS</b>	<b>Buyer: Sandy Suarez</b>	<b>Tel. No: (956) 318-2626 ext. 4860</b>
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# **REQUEST FOR BIDS**

**HIDALGO COUNTY**  
**(All funding sources, programs and entities)**

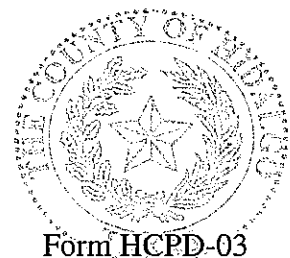
**“MS-1 EMULSIFIED ASPHALT”**  
**BID OPENING DATE:**

**MONTH 00, 2013**

Contact Person:

Martha L. Salazar, CPPB, Purchasing Agent  
Hidalgo County Purchasing Department  
2812 So. Business 281 - New Administration Building  
Edinburg, Texas 78539

956 318-2626



1. Sealed bids will be received for **HIDALGO COUNTY (All Funding Sources, Programs and Entities)–“MS-1 EMULSIFIED ASPHALT”** 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-2013-052-00-00-SGS- HIDALGO COUNTY (All Funding Sources, Programs and Entities) - “MS-1 EMULSIFIED ASPHALT”** and in County's Purchasing Department, 2812 So. Business 281, New Administration Building, Edinburg, Texas, **on or before 9:30 a.m. WEDNESDAY MONTH 00, 2013. 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 REQUEST FOR BIDS-2013-052-00-00-SGS RFB-HIDALGO COUNTY(ALL FUNDING SOURCES, PROGRAMS AND ENTITIES) – “MS-1 EMULSIFIED ASPHALT”**. 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. Hidalgo County reserves the right to refuse and reject any/all bids and to waive any/all formalities or technicalities, or to accept the bid 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. Costs are to be net F.O.B., County Prepaid.
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(All Funding Sources, Programs and**

**Entities) - "MS-1 EMULSIFIED ASPHALT"** Descriptive information as to the items or services delivered, including product code, item number, quantity, etc.

e) Contract number must be indicated on all invoices

- Discount payments will be considered when offered.
- Contact person for Billing and Payment questions:

Hidalgo County Auditor's Office  
Ray Eufrazio, Auditor  
2808 South Business Hwy 281  
Edinburg, Texas 78539  
ATTN.: Accounts Payable (956) 318-2511

17. Schedule of Events

<b>Bid Opening, 9:30 AM</b>	<u>MONTH 00, 2013</u>
Award of Contract	_____, 2013
Commence Work or Deliver Products	_____, 2013

18. Bid or Performance Bond and Debarment Certification; Payment Under Contract:

If the contract proposed is for the construction of public works or is for a contract for goods & services exceeding \$100,000, all bidders shall furnish a good and sufficient bid bond in the amount of five percent of the total contract price. A bid bond must be executed with a surety company authorized to do business in Texas. All bidders are also required to furnish a certification or acknowledgment stating that the contractor or vendor is free from suspension or debarment pursuant to federal regulation 45CFR Part 76.

Together with the signing of a contract or issuance of a purchase order following the acceptance of a bid, and prior to commencement of the actual work, the bidder shall furnish a performance bond to the County for the full amount of the contract, if that contract exceeds \$50,000.

If the contract is for \$50,000 or less, no money will be paid to the contractor until completion and acceptance of the work or the fulfillment of the purchase obligation to the County, and, if applicable, the receipt by County of satisfactory evidence that all subcontractors and material men have been paid.

If a contract is for the construction, alteration or repair of public buildings or public works, the contractor *shall* provide a payment bond for a contract in excess of Twenty Five Thousand Dollars (\$25,000.00), as required by Tex. Govt. Code Ch. 2253.

For requirements contracts, bond requirements are determined by applying the proposed unit price to the estimated quantities included in the specifications.

19. Ethical Standards:

. 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 the County, or for any elected official, department head or employee or former elected official, department head or employee of the County, to solicit, demand, accept or agree to accept from another person, entity or organization, a gratuity or an offer 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 advice, 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 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. Closner, 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**  
(All Funding Sources, Programs and Entities)  
**“MS-1 EMULSIFIED ASPHALT”**  
**BID NO.: 2013-052-00-00-SGS**

To: Martha L. Salazar, CPPB, Purchasing Agent  
Hidalgo County Purchasing Department  
2812 So. Business 281 – New Administration Building  
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: \_\_\_\_\_

**Exhibit "A"**  
**Hidalgo County (All Funding Sources, Programs and Entities)**  
**"MS-1 Emulsified Asphalt"**  
**Bid No: 2013-052-02-00-SGS**

Hidalgo County is seeking qualified vendors to supply and deliver MS-1 Emulsified Asphalt to the following locations but not limited to and on as needed basis. The following is the minimum requirements for the MS-1 Emulsified Asphalt Setting.

- Product Specifications for MS-1 Emulsified Asphalt
- Material – bid price by the gallon delivered by vendor

Asphalt Grade Requirement	MS1		ASTM Test Method
	Min	Max	
Viscosity @25C SFS	20	100	D-88
Residue By Dist. (% by mass)	60	---	D-244
Oil Portion of Dist. (% by vol)	---	2:0	D-244
Sieve Test, retained on 1000um sieve	---	0.1	D-244
Storage Stability 24h (% by mass)	---	1.5	D-244
Demulsibility, 50ml 5.55 g/l, CaCl2	---	---	D-244
<b>TEST ON RESIDUE</b>			
Penetration @ 25C 100g, 5s (0 1mm)	100	200	D-5
Apparent Viscosity 60C (Ps s)			D-4957
Complex Flow Index		0.80	D-2493
Float Test @ 60C s	1200	---	D-139
Solubility in trichloroethylene	97.5	---	D-2042
Ductility @ 25C (cm)	40	---	D-113

**REQUIREMENTS:**

**1. LOCATIONS/DELIVERY INSTRUCTIONS:**

All deliveries will be made to the address(es) specified on the purchase order during normal working hours of 8:00 a.m. to 4:00 p.m., Monday through Friday, unless otherwise authorized by the user department.

- a) Precinct #1 – Sunrise Hill Mile 11 North 1 ½ East of 1015, Mercedes, Texas
- b) Precinct #2- does not have storage facilities but will make arrangements with other county precincts' for temporary storage.
- c) Precinct #3- 7 Mile Line & Iowa Road
- d) Precinct #4 – 1102 North Doolittle, Edinburg, Texas

**2. QUANTITY:**

Hidalgo County will purchase material "ON AN AS NEEDED BASIS ONLY". Thus it is agreed and understood that the County will purchase no more material than is needed.

**3. CONTRACT TERM:**

Option 1 – The term for the purchase of MS-1 Emulsion Asphalt required by Hidalgo County will be for three (3) months with the County's sole discretion to extend the contract for an additional three (3) - three (3) month terms and contingent upon cost to remain unchanged and awarded vendor(s) to supply and deliver to Hidalgo County location(s) upon meeting all required insurances.

**Exhibit "A"**  
**Hidalgo County (All Funding Sources, Programs and Entities)**  
**"MS-1 Emulsified Asphalt"**  
**Bid №: 2013-052-02-00-SGS**

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Option 2 – The term for the purchase of MS-1 Emulsion Asphalt required by Hidalgo County will be for six (6) months with the County's sole discretion to extend the contract for an additional one (1) six (6) month term and contingent upon cost to remain unchanged and awarded vendor(s) to supply and deliver to Hidalgo County location(s) upon meeting all required insurances.

The contract shall remain in effect until contract expires, delivery/completion of services ordered or terminated by Hidalgo County within a thirty (30) day written notice prior to cancellation. The successful bidder must state therein the reasons for such cancellation. Hidalgo County reserves the right to award canceled contract to next lowest bidder as it deems to be in the best interest of the County.

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 of award of new bid for the next contract term.

**4. VENDORS PERFORMANCE:**

Hidalgo County reserves the right to enforce the performance for this contract in any manner prescribed by law or deemed to be in the best interest of the county in the event of breach or default of this contract. Non-Performance of the bidder in terms of specifications and/or requirements shall be a basis for the termination of the contract by the County.

**5. DEFAULT:**

The County shall not pay for work, equipment, services or supplies which are unsatisfactory. Contractor may be given a reasonable opportunity twenty-four (24) hours prior to termination to correct any deficiency. This however shall in no way be construed as negating the basis for termination for non-performance.

Bidder(s) agree(s) that in the event "MS-1 Emulsified Asphalt" is unavailable from bidder(s) own inventory, bidder(s) will be responsible for locating an alternative supplier and for providing the product to Hidalgo County at the same rates/fees, terms and conditions. After the bid is awarded and in the event the awarded bidder(s) cannot provide "MS-1 Emulsified Asphalt" to Hidalgo County, HIDALGO COUNTY will seek goods/services from the next compliant vendor or other sources and will charge the successful bidder the difference for any additional cost incurred by Hidalgo County for such item.

**6. TERMINATION:**

Termination in whole or part, by the county may be made at its option and without prejudice to any other remedy to which it may be entitled at law or in equity, or elsewhere under this contract, by giving thirty (30) days written notice to the Contract with the understanding that all work being performed under this contract shall cease upon the date specified in such notice.

**7. TERMS AND CONDITIONS:**

- a) 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 advantageous to the County.
- b) Hidalgo County reserves the right to award to one or more bidders whichever is in the best interest of the County.

**Exhibit "A"**  
**Hidalgo County (All Funding Sources, Programs and Entities)**  
**"MS-1 Emulsified Asphalt"**  
**Bid No: 2013-052-02-00-SGS**

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- c) Insurance certificates as per "exhibit C" must be submitted to the Purchasing Department prior to any services being performed by the awarded bidder.
  - d) **Insurance requirements for this project to be maintained throughout the contract term (refer to Limits in Exhibit "C").**
  - e) **The bidder(s) awarded the contract cannot engage the services of a subcontractor without prior written consent of Hidalgo County** to perform services hereunder. The successful bidder(s) must present evidence that the proposed subcontractor possess all the necessary licenses and permits to perform the services and **that subcontractor has obtained the required insurance.**
  - f) In the event the material furnished does not meet the entire County's requirement (regardless of weather, test's 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 unused portion of material found to be unsatisfactory.
  - g) Hidalgo County reserves the right to hold bids for a period of ninety (90) days without taking any action.
  - h) 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) days written notice prior to cancellation.
  - h) All cost and expenses associated with the preparation and submission of all (bid, proposals, statements of qualifications (RFQ) and quotes shall be responsibility of the bidder and no reimbursements for such charges or expenses shall be passed on to HIDALGO COUNTY
8. **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:
- a) **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.
    - i. 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.
    - ii. 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.
    - iii. The County Purchasing Agent retains the right to determine whether or not such proposed price changes are in the best interest of the County.
    - iv. No price escalation will be authorized in excess of the amount of the increase referred to in the supplier's notice.
    - v. 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

**Exhibit "A"**  
**Hidalgo County (All Funding Sources, Programs and Entities)**  
**"MS-1 Emulsified Asphalt"**  
**Bid No: 2013-052-02-00-SGS**

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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.

- b) 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 both be obligated to pay the Vendor the difference between the contract price and the price adjustment.
- c) Time frame 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 then (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.
- d) 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.
- e) 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 South Business Hwy 281, Edinburg, Texas 78539. **TELEPHONE INQUIRIES WILL NOT BE ACCEPTED.**

**ALL WRITTEN INQUIRES WILL BE ACCEPTED VIA FACSIMILE OR EMAILED TO: sandy.suarez@co.hidalgo.tx.us no later than Wedensday, Month 00, 2013 at 5:00 p.m.** Responses to said inquires will be sent to all applicants via facsimile or via e-mail by **no later than Friday, Month 00, 2013 at 5:00 p.m.**

Zimbra

rocio.villarreal@co.hidalgo.tx.us

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**RE: C-13-052-00-00-MS-1 Emulsified Asphalt-Draft Agreement**

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**\*From :** Steve Crain <scrain@atlashall.com>

Thu, Mar 14, 2013 09:54 AM

**Subject :** RE: C-13-052-00-00-MS-1 Emulsified Asphalt-Draft Agreement**To :** 'Rocio Villarreal' <rocio.villarreal@co.hidalgo.tx.us>

The agreement is fine.

-----Original Message-----

From: Rocio Villarreal [mailto:rocio.villarreal@co.hidalgo.tx.us]

Sent: Thursday, March 14, 2013 9:27 AM

To: Steve Crain

Subject: Re: C-13-052-00-00-MS-1 Emulsified Asphalt-Draft Agreement

Mr. Crain:

The agreement has been corrected. Please review and approve as to form.

Thank you.

ROCIO VILLARREAL

----- Original Message -----

From: "Steve Crain" &lt;scrain@atlashall.com&gt;

To: "Rocio Villarreal" &lt;rocio.villarreal@co.hidalgo.tx.us&gt;

Sent: Thursday, March 14, 2013 7:21:30 AM

Subject: RE: C-13-052-00-00-MS-1 Emulsified Asphalt-Draft Agreement

In numbered paragraph correct the language to read "additional one(1) six(6) month term".

-----Original Message-----

From: Rocio Villarreal [mailto:rocio.villarreal@co.hidalgo.tx.us]

Sent: Wednesday, March 13, 2013 5:05 PM

To: scrain@atlashall.com

Cc: Sandra Suarez

Subject: C-13-052-00-00-MS-1 Emulsified Asphalt-Draft Agreement

Mr. Crain:

Please review draft agreement and approve as to form. Thank you.

## REQUIREMENTS AGREEMENT

C-13-052-00-00

THIS AGREEMENT (the "Agreement") is entered into effective as of by and between **COMPANY'S NAME**, a **TEXAS Company** ("Seller") and **HIDALGO COUNTY** ("Buyer").

WHEREAS, Buyer has solicited proposals for the supply of its requirements of Hidalgo County "**MS-1 Emulsified Asphalt (On An As Needed Basis)**," for Hidalgo County as further described in Exhibit "A" (the "Products"), Request for Bid (RFB) Procurement Packet, which are attached hereto and incorporated herein by reference for all purposes (the "RFB") 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 "**MS-1 Emulsified Asphalt**" in the areas of **HIDALGO COUNTY** projects for a period of \_\_\_\_\_ from \_\_\_\_\_ with the option to renew for an additional ~~one (1) six (6) months terms~~; under the same rates, terms, and conditions, and it is agreed that the Products will meet the specifications set forth in Exhibit "A" hereto. Hidalgo County reserves the right to extend this agreement for an additional sixty (60) day grace period at the end of the contract term (subject to the same terms, and conditions) for unforeseen delay in award of new bid for next contract term.

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 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  
1615 S. Closner, Suite J  
Edinburg, Texas 78539

If to Seller: COMPANY'S NAME

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 advice, 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 BY COMMISSIONERS COURT ON, \_\_\_\_\_

HIDALGO COUNTY

COMPANY'S NAME

\_\_\_\_\_  
Ramon Garcia, County Judge

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

ATTEST:

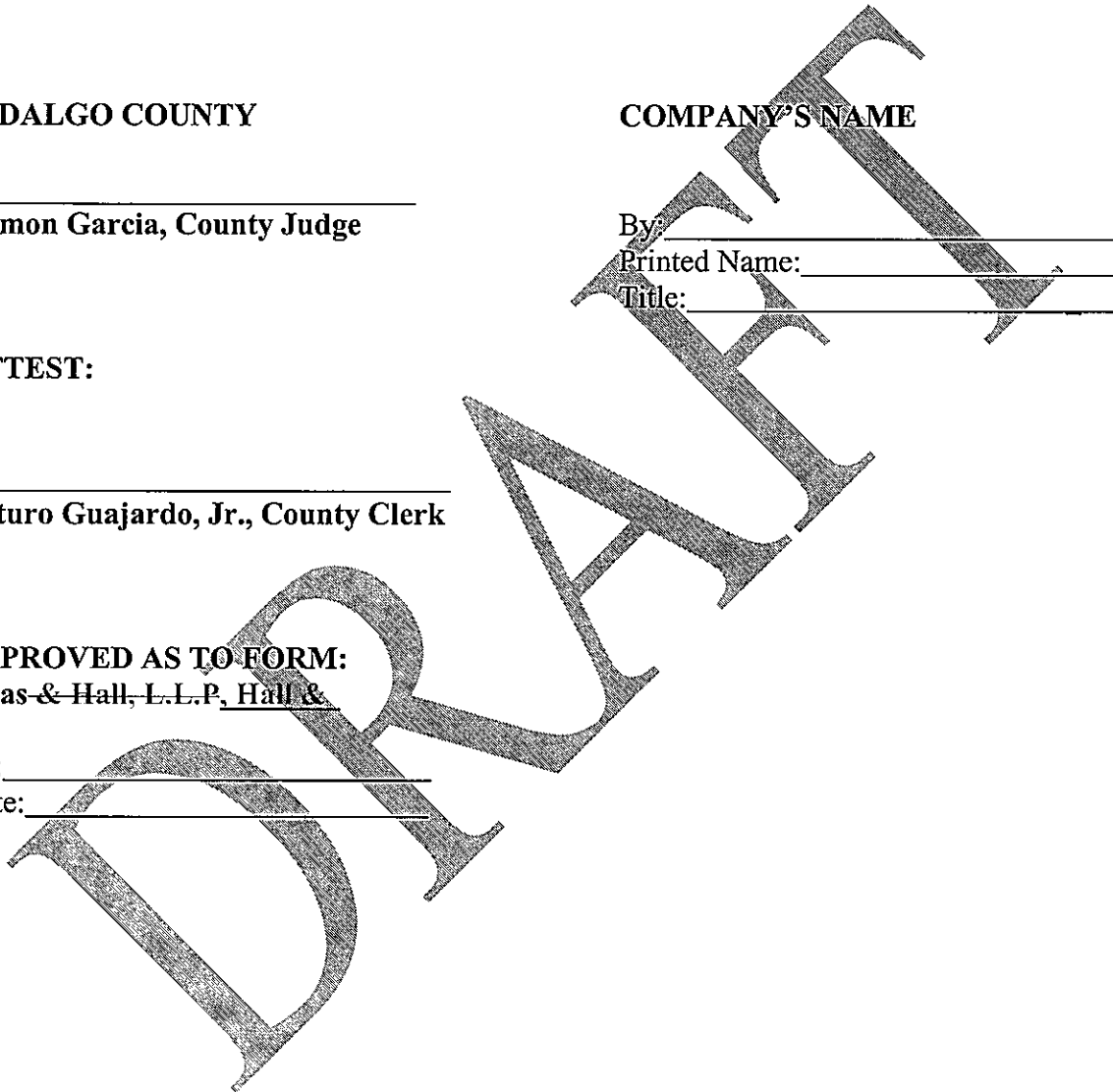
\_\_\_\_\_  
Arturo Guajardo, Jr., County Clerk

APPROVED AS TO FORM:

| Atlas & Hall, L.L.P., Hall &

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

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



**EXHIBIT "A"**  
**SPECIFICATIONS**

DRAFT

**EXHIBIT "B"**  
**PAYMENT SCHEDULE**

**DRAFT**

**EXHIBIT "C"**  
**INSURANCE REQUIREMENTS**