

THE STATE OF TEXAS §
 §
COUNTY OF HIDALGO §

**SERVICE CONTRACT
C-17-150-07-25**

THIS CONTRACT is made and entered into this **5th** day of **July, 2017** by and between the **County to Hidalgo, Texas** ("County"), and **Waukesha Pearce Industries LLC.** Company ("Company").

WHEREAS, Seller responded to advertised notices for bids for: **“Service/Repair and Maintenance of County Generators” (on an as needed basis)** (the "Services"); and

WHEREAS, Seller submitted a bid (a copy of such bid is attached hereto as Exhibit “B”) to provide services in accordance with Exhibit “A” Request for Bids (RFB) Procurement Packet attached hereto and incorporated herein for all purposes of (the "RFB"); and;

WHEREAS, in recognition of and in consideration of Buyer’s agreement to perform the Services in accordance with Specifications within Exhibit “A” Request for Bids (RFB) Procurement Packet, the Commissioners Court of County awarded the bid to Company.

NOW, THEREFORE, in mutual consideration of the foregoing and the further consideration of the following, the parties hereto agree as follows:

1. Buyer and Seller hereby agrees that this Contract is entered into in order to provide the Services to **Hidalgo County.** This Contract does not extend to any third parties any duties or benefits conferred in any manner hereunder or otherwise.

2. Seller hereby promises and agrees to render and provide, during the term of this Contract, and shall be obligated to render and provide the services in accordance with the

Specifications contained in Exhibit “A” Request for Bids (RFB) Procurement Packet within **Hidalgo County** following a request for Services by the **Hidalgo County** or its designated agent. Seller agrees in performing the Services that it will use proper professional standards, comply with any and all appropriate laws and regulations in providing the Services, and devote such time as is necessary to safely and efficiently provide the Services. Further Hidalgo County reserves the right to request these services from other sources other than the successful vendor and shall not be in violation of any terms or conditions of said contract.

3. This Contract shall be for a period of **three (3) years (on an as needed basis)**, commencing on **October 31, 2017** and expiring on **October 30, 2020**. Hidalgo County also 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 of award for the next term and contingent upon cost remaining unchanged.

4. As a condition of this Contract, Seller shall hold and maintain throughout the term of this Contract all licenses and permits required, or which may be required by any authority during the term hereof to provide the Services.

5. All trucks or vehicles operated by the Company to perform the Services shall contain all equipment required by any authority to operate on streets and roads and all persons in the employ of Seller who operate such trucks or vehicles shall have the required licenses, qualifications, skill and expertise to perform such Services and shall comply with all laws, rules and regulations prescribed by any agency or authority having jurisdiction with regard to the operation of such trucks or vehicles in providing the Services.

6. As consideration for rendering the Service provided for in this Contract, the Buyer agrees to pay Seller the amounts specified in Exhibit "B" attached hereto payable against written invoice submitted by Seller.

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

8. Seller shall provide a sufficient number of trucks, vehicles, personnel and equipment available to safely and efficiently provide the Services.

9. Seller shall indemnify and hold harmless Buyer's, its elected officials, employees and agents from any and all claims, damages, losses, and expenses including attorney's fees for the defense of any action against Buyer's arising out of, resulting from, or connected with the provision of the Service by Seller under this Contract. Said indemnity shall cover any act or failure to act by the Seller, its agents or employees.

10. This Contract shall not be assignable in whole or in part by either party without prior written consent of the other party.

11. It is expressly agreed that this Contract and the performance by the parties hereunder does not create any agency relationship or master-servant relationship that Buyer has no supervision of the performance of the Services provided by Seller, and that Company is an independent contractor under this Contract.

12. Any notice required or permitted to be given hereunder shall be in writing and shall be delivered personally or sent by certified mail, postage prepaid, as set forth below:

If to County: County of Hidalgo
Attn: County Judge
100 E. Cano 2nd Floor
Edinburg, Texas 78539

If to Company: Waukesha-Pearce Industries LLC.
6450 N. Loop 1604 East
San Antonio Tx. 78247

13. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

14. This Agreement may be terminated by Buyer without cause upon thirty (30) days written notice.

15. This Agreement shall be binding upon and inure to the benefit of and be enforceable by the parties hereto and their respective heirs, executors, administrators, legal representatives, successors, and assigns where permitted by this Agreement.

16. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas and shall be performable in Hidalgo County.

17. **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).

18. **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 representation or agreement in connection with this Agreement not specifically set forth herein. This Agreement may be modified or amended only by agreement in writing executed by the parties hereto, and not otherwise.

19. **Immunities.** Nothing in this Agreement is intended to and County does not hereby waive, release or relinquish any right to assert any of the defenses County enjoys by virtue of the state or federal constitution, laws, rules or regulations, and any sovereign, official or qualified immunity available to County as to any claim or action of any person, entity, or individual against County.

WITNESS our hands in duplicate originals this 5th day of July, 2017.

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

By: _____
Stephen L. Crain

Buyer: Hidalgo County, Texas

ATTEST:

By: _____
Ramon Garcia, County Judge

Arturo Guajardo, Jr., County Clerk

Seller:

By: _____
Printed Name: _____
Title: _____