



2802 S. Bus. Hwy 281  
Edinburg, Texas 78539  
Phone: (956) 318-2626  
Fax: (956) 318-2629  
[www.co.hidalgo.tx.us/purchasing](http://www.co.hidalgo.tx.us/purchasing)

\_\_\_\_\_, 2020

\_\_\_\_\_  
Bidder's name

\_\_\_\_\_  
Address

\_\_\_\_\_  
City

\_\_\_\_\_  
State, Zip Code

Re: **HIDALGO COUNTY**  
Request for Bids –RFB: 2020-033-09-02-HAG “Striping/Markings of County Roads, County  
Parking Lots, & Misc. County Owned Sites”

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Dear Gentleman/Ladies:

Enclosed, please find the Request for Bid (RFB) packet. **Modifications and new requirements** have been added and implemented. Carefully read and review all instructions, Requirements and Specifications.

Hidalgo County Purchasing Department welcomes and appreciates your participation in the Request for Bids process.

If any further assistance is required, please do not hesitate to call the Purchasing Department at (956) 318-2626 x 4857.

Sincerely,

\_\_\_\_\_  
Martha L. Salazar, CPPB  
Hidalgo County Purchasing Agent

MLS/hag  
Enclosures



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## HIDALGO COUNTY REQUEST FOR BIDS

### “Striping/Markings of County Roads, County Parking Lots, & Misc. County Owned Sites”

**RFB NO: 2020-033-09-02-HAG**

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The above mentioned items shall be found in this Request for Bids - (RFB) - packet that is attached herewith. Should you find that any of the listed items are not attached in its entirety, please contact The Purchasing Dept. by calling (956) 318-2626, to advise us of the missing documentation, and Purchasing will forward information either through facsimile, e-mail or by U.S. Mail.

Thank you.

# REQUEST FOR BIDS

## HIDALGO COUNTY

“Striping/Markings of County Roads, County Parking Lots, & Misc.  
County Owned Sites”

## BID OPENING DATE

September 02, 2020

Contact Person:

Martha L. Salazar, CPPB, Purchasing Agent  
Hidalgo County Purchasing Department  
Physical Address: 2802 S. Business Hwy. 281 - Administration Building  
Mailing/Postal Address: 2812 S. Business Hwy. 281  
Edinburg, Texas 78539  
(956) 318-2626



1. **Hidalgo County** is seeking qualified participants to “**Striping/Markings of County Roads, County Parking Lots, & Misc. County Owned Sites**”, in accordance with the requirements attached hereto as Exhibit "A". The sealed bid should address all requirements set forth. Bidders (may also be referred to as respondent, contractor or vendor) may suggest substitutions of features which they feel would be in the best interest of Hidalgo County ("County"), however, a strong rationale must be presented for any deviation from the requirements. Hidalgo County reserves the right to reject the deviation and its effect on the overall bid.
2. **One (1) original** (pages *one-sided* – clearly marked **ORIGINAL**), **one (1) copy** of all bids and **one (1) CD/USB in PDF** format are required with the bidder’s name and 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: 2020-033-09-02-HAG Hidalgo County “Striping/Markings of County Roads, County Parking Lots, & Misc. County Owned Sites”**, and in County's Purchasing Department, Physical Location: 2802 S. Business Hwy. 281 Postal/ Mailing: 2812 S. Business Hwy. 281 Administration Building, Edinburg, Texas, **ON OR BEFORE 9:30 A.M., Wednesday September 02, 2020.**

**NO FACSIMILES OR LATE ARRIVALS WILL BE ACCEPTED. ANY BID 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 AND/OR PACKAGE IN REFERENCE TO SEALED BID.**

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.

Additionally, all forms listed below must be properly executed and included with your RFB:

1. Legal Notice Acknowledgement (See **page 12**);
  2. Insurance pages with Acknowledgment Forms (See **Exhibit “C”**);
  3. Form CIQ-Conflict of Interest Questionnaire (See **Exhibit “D”**);
  4. Vendor Bidder Application, W-9, & HUB/DBE (See **Exhibit “E”**);
  5. Certification Regarding Debarment (See **Exhibit “F”**);
  6. (*If applicable*) - Required Contract Clauses for Contracts Under Federal Award – 2 CFR 200, Appendix II & FEMA (See **Exhibit “H”**);
  7. Proposer’s Affidavit (See **Exhibit “J”**); and
  8. SAMS.gov Registration Acknowledgement (See **Number 17** below).
3. Hidalgo County reserves the right to separate and accept or eliminate any item(s) listed under this bid that it deems necessary to accommodate budgetary and/or operational requirements. Hidalgo County also reserves the right to reject any or all bids submitted. Receipt of any bid shall under no circumstances obligate County to accept the lowest dollar bid. The award of this contract shall be made to the responsible bidder whose bid is determined to be the best bid, taking into consideration the relative importance of price and other factors as herein set forth.
  4. Failure of the delivered item 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 an event, County may elect to award the contract to the next lowest responsible bidder or to reject all sealed bids and re-advertise.

5. Respondent is responsible for obtaining any information needed in order to respond to the RFB. For work to be performed at a County owned or operated location, each respondent shall, in its sole discretion, visit the job site before preparing the bid and thoroughly familiarize himself/herself with existing conditions. Respondent should take field dimensions and note all circumstances which affect the dollar amount.
6. Respondent should provide any and all relevant information necessary to establish Bids. 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, respondents are required to include illustrations, specifications, explanation of warranties, and service data with their response including catalog numbers and any necessary references.
7. Submitted Bid prices are to remain firm for a minimum of ninety (90) days after the RFB opening.
8. County reserves the right to accept or reject any or all Bids.
9. Any interpretations, amendments, corrections or changes to this RFB 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. Respondents shall acknowledge receipt of all addenda as a part of their Bids submittal.
10. Respondent is responsible for all costs of submitting its response to the RFB.
11. The county is exempt from Federal Excise Tax, State Tax, and Local Tax. Do Not include tax in cost figure(s). If it is determined that tax was included in the cost figure(s) it will not be included in the tabulation of any awards. Tax exemption certificates will be furnished upon request.
12. 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.
13. 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.
14. **POST-AWARD DELIVERY INSTRUCTIONS (if applicable):**
  - Costs are to be net F.O.B., County Prepaid.
  - No deliveries accepted after 3:00 P.M., Monday-Friday (if applicable).
  - At least seventy-two (72) hours prior notice of delivery must (if applicable) be given to Martha L. Salazar, CPPB, Hidalgo County Purchasing Agent before delivery will be accepted.
  - If you need additional information call the office listed below:

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

**15. POST-AWARD PROJECT-SPECIFIC BILLING AND PAYMENT INSTRUCTIONS:**

- Invoices must include:
  - a) Name and address of successful respondent;
  - b) Name and address of receiving department or official;
  - c) Purchase Order Number and Contract number (if any) for the project-specific award;
  - d) Notation – **Hidalgo County RFB: 2020-033-00-00-HAG “Striping/Markings of County Roads, County Parking Lots, & Misc. County Owned Sites” and**
  - e) Descriptive information as to the items or services delivered, including product code, item number, quantity, etc.
  
- Discount payments will be considered when offered (if applicable).
  
- Contact person for Billing and Payment questions:

**HIDALGO COUNTY AUDITOR’S OFFICE**  
 Postal/Mailing 2808 S. Business Hwy. 281  
 Edinburg, Texas 78539  
 956-318-2511

**SCHEDULE OF EVENTS:**

<b>RFB Opening, 9:30 A.M.</b>	<b>September 02, 2020</b>
Award of Contract:	<u>2020</u>
Commence Work or Deliver Products:	<u>2020</u>

**16. HIDALGO COUNTY HOLIDAYS:**

<b>2020 YEAR</b>	
<b>New Year’s Day</b>	<b>01/01/20</b>
<b>Martin Luther King Day</b>	<b>01/20/20</b>
<b>President’s Day</b>	<b>02/17/20</b>
<b>Good Friday</b>	<b>04/10/20</b>
<b>Memorial Day</b>	<b>05/25/20</b>
<b>Independence Day</b>	<b>07/03/20</b>
<b>Labor Day</b>	<b>09/07/20</b>
<b>Columbus Day</b>	<b>10/12/20</b>
<b>Veteran’s Day</b>	<b>11/11/20</b>
<b>Thanksgiving Day</b>	<b>11/26/20-11/27/20</b>
<b>Christmas Day</b>	<b>12/24/20-12/25/20</b>
<b>New Year’s Eve</b>	<b>12/31/20</b>

17. **BID, PAYMENT, OR PERFORMANCE BOND AND DEBARMENT CERTIFICATION; PAYMENT UNDER CONTRACT:**

The County may, and if mandated by statute, shall require a bid bond, a performance bond and/or a payment bond. Any such bond must be executed with a surety company authorized to do business Texas and shall meet any other requirements established by law or by County pursuant to applicable law.

- If the contract proposed is for the construction of public works or is for a contract for goods & services exceeding \$100,000, all respondents shall furnish a good and sufficient bid bond in the amount of five percent of the total contract price.
- In the event the contract exceeds Fifty Thousand Dollars (\$50,000.00), the respondent shall furnish a payment bond and a performance bond to the County for the full amount of the contract within thirty (30) days after the date of signing of the contract or issuance of a Purchase Order following the acceptance of a bid or proposal, but in any event prior to the commencement of actual work.
- 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 performance bond for a contract in excess of One Hundred Thousand Dollars (\$100,000.00) and *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.
- All participants 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 45 CFR Part 76. [Register at SAMs System for Award Management](#)

18. **TITLE VI NOTICE/ NONDISCRIMINATION:**

- a) By submitting a bid, the respondent certifies that it will comply with the following nondiscrimination statutes and their implementing regulations. Title VI of the Civil Rights Act of 1964, as amended (78 Stat.252, 42 U.S.C. §§2000d to 2000d-4) provides that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Recipient receives Federal financial assistance. Title VI has been broadened by related statutes, regulations and executive orders as found in Appendices “A” through “E” as delineated in the USDOT Standard Title VI/Non-Discrimination Assurances-Specific Assurances to prohibit discrimination on other grounds including, but not limited to, religion, sex, age, and disability. (Title VI-Appendices “A” through “E” are hereby attached as **Exhibit “G”**. The

County's entire Title VI policy may be found at <https://www.hidalgocounty.us/2071/Title-VINondiscrimination-Plan> and is hereby incorporated by reference.

- b) The following required statement and the applicable provisions of the Title VI Appendices "A" through "E" expanding these protections to the categories described herein are hereby incorporated by reference as applicable.
- "The County of Hidalgo, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat.252, 42 U.S.C. §§2000d to 2000d-4) and the Regulations, hereby notifies all respondents that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit Bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award".
- c) The respondent will attach all applicable notices, including those referenced in Title VI – Appendices "A" through "E", to which it is obligated to provide or submit as part of the RFB.
- If applicable, Form FHWA 1273 – "*Required Contract Provisions Federal-Aid Construction Contracts*", must be physically attached to certain Federal-aid construction contracts. A contractor (or subcontractor) is required to insert Form FHWA 1273 in each subcontract and all lower-tier subcontracts. Form FHWA 1273 is attached as **Exhibit "I"**, and, if applicable, its provisions are incorporated in and made part of the contract entered into between the County and the successful respondent related to the present procurement.

**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.
- Contracts awarded hereunder shall be in compliance with Tex. Loc. Govt. Code Chapter 171: Regulation of Conflicts of Interest of Officers of Municipalities, Counties and Certain Other Local Governments.
- **NOTICE:**  
*All communications by a vendor to the county, its officials, and department heads regarding this procurement shall be done through the Hidalgo County Purchasing Department.*

No vendor, its' representative, agent, or employee shall engage in private communication with a member of the Hidalgo County Commissioners Court or county department heads regarding any procurement of goods or services by the County from the date that the RFB, RFP, or RFQ is released. No private communication regarding the purchase shall be permitted until the procurement process is complete and a purchase order is granted or a contract is entered into "Private Communication" means communication with any vendor outside of a posted meeting of the governing body, a regular meeting of a standing or appointed committee, or negotiation with a vendor which has been specifically authorized by the governing body.

**20. DISCLOSURE OF CONFLICT OF INTEREST:**

Effective January 1, 2016, 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 the statement to be filed. The disclosure requirement applies to a person or business that 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 respondent fails to comply with the 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 details of this law. An offense under Texas Local Government Code Chapter 176 is a Class C Misdemeanor.

**If applicable, completed Form CIQ must be submitted 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 RESPONDENT. QUESTIONS REGARDING COMPLIANCE SHOULD BE DIRECTED TO YOUR LEGAL COUNSEL.**

**21. CERTIFICATE OF INTERESTED PARTIES (FORM HB1295):**

As of January 1, 2016, to comply with Texas Government Code Section §2252.908, and the rules issued by the Texas Ethics Commission found in Title 1, Section 46.1, 46.3 and 46.5 of the Texas Administrative Code, we have updated and revised our RFB packet. In accordance with these requirements, a business must submit a completed Certificate of Interested Parties Form 1295 to the County before the County may enter into a contract with the business entity. In box 3 of Form 1295, you will provide the **RFB No. 2020-033-09-02-HAG**, as shown on the packet. Once completed and filed with the Texas Ethics Commission, Form 1295 must be printed, signed, and submitted to our office either by facsimile transmission to (956) 292-7612 or via email to [hector.garcial@co.hidalgo.tx.us](mailto:hector.garcial@co.hidalgo.tx.us). Hidalgo County cannot enter into a contract until Form 1295 is submitted. Therefore, failure to timely submit signed Form 1295 may result in a delay of the award. Full instructions for completion and submittal of Form 1295 may be found on the Texas Ethics Commission website:

**<https://www.ethics.state.tx.us/tec/1295-Info.htm>**

**THE AWARDED VENDOR WILL HAVE THIRTY (30) DAYS FROM THE DATE THE HIDALGO COUNTY COMMISSIONERS' COURT APPROVES THIS AGREEMENT TO SUBMIT THE SIGNED FORM 1295. HIDALGO COUNTY CANNOT ENTER INTO A CONTRACT UNTIL FORM 1295 IS SUBMITTED.**

22. 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.
23. Bids and all goods and services provided hereunder shall comply with all federal, state and local laws concerning this type(s) of goods and/or services.
24. Minimum Standards for Responsible Prospective Respondents: A prospective respondent must affirmatively demonstrate the respondent's responsibility. A prospective respondent, by submitting an RFB, represents to County that it meets the following requirements:
- Possess or is able to obtain adequate financial resources as required to perform under this RFB;
  - 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; and
  - Be otherwise qualified and eligible to receive an award.
25. 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.
26. Any contract awarded to the successful bidder will be in effect until (a) the contract expires, (b) delivery and acceptance of products, and/or performance of services ordered, (c) terminated by County with thirty (30) days written notice prior to cancellation with or without cause.
27. Any supplemental project-specific contract award to a successful respondent 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 (30) days written notice prior to cancellation with or without cause.
28. 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. County reserves the right to terminate the contract immediately in the event of breach or default by a successful respondent, or in the event, a successful respondent fails to:
- A. Meet schedules;
  - B. Pay any required fees or taxes; or
  - C. Otherwise, perform in accordance with the requirements.
29. **INDEMNIFICATION: Successful respondent 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 respondent, or of any agent, employee, subcontractor or supplier 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 respondent 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 respondent'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 respondent.

30. The successful respondent shall warrant that all items/services shall conform to 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 approval. Items found to be defective or not meeting specifications shall be replaced by the successful respondent within two (2) business days at no expense to County. Items that are 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 items' nonconformity.
31. 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.
32. The successful respondent 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.
33. Respondents shall provide with the Bids response, a list of at least three (3) references where like services have been supplied by their firm. Include the name of the business or government, address, telephone number and the name of the representative or contact person.
34. **CONTRACTS SUBJECT TO FEDERAL AWARD:**
  - The procurement standards of 2 CFR, Part 200, including, but not limited to 2 CFR 200.317-200.326, and applicable Hidalgo County Purchasing Policy (found at <https://www.hidalgocounty.us/805/County-Administrative-Policies>) address the County's requirements, as a non-Federal entity, in regards to contracts it enters into that are subject to federal award. Pursuant to 2 CFR 200.236, the County, as a non-Federal entity, is required to include into contracts subject to federal award, the applicable provisions and contract clauses described in Appendix II to 2 CFR 200, (Contract Provisions for non-Federal Entity Contracts Under Federal Awards). As such, **if applicable**, the provisions of the Hidalgo County Purchasing Policy, the procurement standards found in 2 CFR, Part 200, and the provisions of Appendix II to 2 CFR 200, and the required contract clauses found in **Exhibit "H"** are incorporated by reference, whether specified explicitly or not, as part of this procurement packet and any resulting agreement.
  - In addition, should the County's contracts under Federal award be subject to assistance from the Federal Emergency Management Agency (FEMA), FEMA requires the inclusion of contract terms in addition to those under Appendix II to 2 CFR 200. **If applicable**, the additional contract clauses required by FEMA are found in **Exhibit "H"** and incorporated by reference, whether specified explicitly or not, as part of this procurement packet and any resulting agreement. Should the contract be subject to assistance from FEMA, it is the County's intention to comply with FEMA requirements; therefore, any conflict in terms should be resolved as such.
  - **If applicable**, in accordance with 2 CFR 200.319, Contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements. (See 2 CFR 200.219). Additionally, Hidalgo County

policy provides that for federal road projects, engineers, engineering firms, and/or a subsidiary, affiliate, or a consultant of the engineer or engineering firm who has received compensation from the County, that assist in the development of, or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals, will be excluded from competing for such procurements (i.e...subsequent construction engineering/management and/or inspection/testing) for all other phases of the project. (See Hidalgo County Policy) “*Procedures for Selection and Contracting of Professional Service Providers for Federal Road Projects*” found at <https://www.hidalgocounty.us/805/County-Administrative-Policies>, which, if applicable, is incorporated by reference, whether specified explicitly or not, as part of this procurement packet and any resulting agreement for all purposes.

**35. HISTORICALLY UNDERUTILIZED BUSINESS/DISADVANTAGED BUSINESS ENTERPRISES:**

The County is committed to ensuring that Historically Underutilized Businesses (HUB) and Disadvantaged Business Enterprises (DBE) such as small business enterprises (SBE), minority and women-owned business enterprises (MWBE) receive a fair and equal opportunity for participation in the County’s procurement process. The County encourages the use of these enterprises both as prime and subcontractors. (See **Exhibit “E”** for requirements).

When federal funds are expended by the County, the County will take affirmative steps set forth in 2 CFR 200.321 to assure that small, minority, women-owned businesses and labor surplus area owned firms are used when possible. Pursuant to 2 CFR 321, the County requires that a prime contractor who uses subcontractors take affirmative steps set forth in 2 CFR 200.321, including:

- a) Placing qualified small and minority business and women’s business enterprises on solicitation lists;
- b) Assuring that small and minority businesses, and women’s business enterprises are solicited whenever they are potential sources;
- c) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women’s business enterprises;
- d) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women’s business enterprises; and
- e) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

Nothing in this section is to be construed to require the County to award a contract other than as required by law and Hidalgo County policies and procedures.

**36. BOYCOTT ISRAEL VERIFICATION:** In accordance with the Texas Government Code Chapter 2270, the County may not enter into a contract for goods or services with a vendor unless the contract contains a written verification from the vendor that it does not boycott Israel and will not boycott Israel during the term of the contract. *Pursuant to Sections 2270.001, 2270.002, 808.001, Texas Government Code:*

1. *“Boycott Israel” means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes; and*
2. *“Company” has the meaning assigned by Section 808.001, except that the term does not include a sole proprietorship.*

3. *Section only applies to a contract that is between a governmental entity and a company with 10 or more full-time employees; and has a value of \$100,000 or more that is to be paid wholly or partly from public funds of the governmental entity.*

By signing the acknowledgement form to this legal notice, Vendor understands that it is providing written verification and certification as indicated above. Any Vendor claiming an exception or otherwise unable to make this certification, shall submit an explanation on separate sheet(s). Failure to comply or providing false information may result in rejection of Vendor's submission. **Vendor shall indemnify and hold harmless the County, its elected officials, employees and agents for relying on this verification.**

37. TEX. GOVT. CODE CH. 2252- ATTESTATION-TERRORIST ORGANIZATIONS: By submitting a response to this procurement request and/or accepting this Contract, Company attests that it is not identified on a list of companies known to have contracts with or provide supplies or services to a foreign terrorist organization as designated by the U.S. Secretary of State. County will search a database maintained by the Texas State Comptroller. A contract may not be entered into with an entity that is identified therein. Search results shall be incorporated for all purposes as part of any resulting agreement entered into by the parties.
38. Respondents must provide all applicable documentation requested with this RFB in their response. Failure to provide this information may result in rejection of the Bids as non-conforming.

**REQUEST FOR BIDS**  
**For**  
**HIDALGO COUNTY**  
**“Striping/Markings of County Roads, County Parking Lots, & Misc. County Owned Sites”**  
**RFB No.: 2020-033-09-02-HAG**

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

Respondent acknowledges that it has examined this Request for Bids and specifications and is familiar with the conditions to be met. In accordance with the Specifications, and subject to all laws and regulations of the United States and state and local laws, the undersigned respondent proposes and commits to furnish all labor, equipment, material, software, and services as set forth in the documents hereinbefore mentioned. The undersigned respondent further agrees, upon acceptance of its Bids, 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.

Respondent acknowledges receipt of all of the pages of the documents referenced in the Request for Bids Checklist presented in connection with this procurement. Respondent understands that Hidalgo County reserves the right to reject any or all RFB’s and further reserves the right to design the evaluation criteria to be used in selecting the lowest and best qualification.

Respondent acknowledges that by signature below, it is providing the required certifications, attestations, verifications and/or acknowledgments as referenced within this Request for Bids. Respondent acknowledges that any and all specifications, provisions, and attachments of this Request for Bids are incorporated into and made a part of any resulting agreement.

Respondent agrees that this RFB 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. An individual authorized to bind the company must sign the following section. Failure to execute this section may result in Bid rejection.

**Respectfully submitted,**

**Firm:** \_\_\_\_\_

**Address:** \_\_\_\_\_

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

**Printed Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Exhibit "A"**  
**Hidalgo County**  
**"Striping/Markings of County Roads, County Owned Parking Lots & Misc. County Owned Sites"**  
**RFB No.: 2020-033-09-02-HAG**  
**(NIGP CODE: 968-61)**

See the attached TxDOT specifications for the items on the pricing sheet. The entire TxDOT specification manual for 2014 can be downloaded on their website at: **All Striping/Markings of County Roads, County Parking Lots, & Misc. County Owned Sites must be in accordance with all applicable TxDOT Pavement Marking standards mentioned herein but not limited to.**

<ftp://ftp.dot.state.tx.us/pub/txdot-info/des/spec-book-1114.pdf>

DRAFT

# Item 666

## Retroreflectorized Pavement Markings



### 1. DESCRIPTION

Furnish and place retroreflectorized, non-retroreflectorized (shadow) and profile pavement markings.

### 2. MATERIALS

2.1. **Type I Marking Materials.** Furnish in accordance with DMS-8220, "Hot Applied Thermoplastic."

Furnish pavement marking material used for Type I profile markings and shadow markings that have been approved by the Construction Division, and in accordance with DMS-8220, "Hot Applied Thermoplastic."

2.2. **Type II Marking Materials.** Furnish in accordance with DMS-8200, "Traffic Paint."

2.3. **Glass Traffic Beads.** Furnish drop-on glass beads in accordance with DMS-8290, "Glass Traffic Beads" or as approved. Furnish a double-drop of Type II and Type III drop-on glass beads where each type bead is applied separately in equal portions (by weight), unless otherwise approved. Apply the Type III beads before applying the Type II beads.

2.4. **Labeling.** Use clearly marked containers that indicate color, mass, material type, manufacturer, and batch number.

### 3. EQUIPMENT

3.1. **General Requirements.** Use equipment that:

- is maintained in satisfactory condition,
- meets or exceeds the requirements of the National Board of Fire Underwriters and the Texas Railroad Commission for this application,
- applies beads by an automatic bead dispenser attached to the pavement marking equipment in such a manner that the beads are dispensed uniformly and almost instantly upon the marking as the marking is being applied to the road surface. The bead dispenser must have an automatic cut-off control, synchronized with the cut-off of the pavement marking equipment,
- has an automatic cut-off device with manual operating capabilities to provide clean, square marking ends,
- is capable of producing the types and shapes of profiles specified, and
- can provide continuous mixing and agitation of the pavement marking material. The use of pans, aprons, or similar appliances which the die overruns will not be permitted for longitudinal striping applications.

Provide a hand-held thermometer capable of measuring the temperature of the marking material when applying Type I material.

When pavement markings are required to meet minimum retroreflectivity requirements on the plans:

- Use a mobile retroreflectometer approved by the Construction Division and certified by the Texas A&M Transportation Institute Mobile Retroreflectometer Certification Program.
- Use a portable retroreflectometer that:
  - uses 30-meter geometry and meets the requirements described in ASTM E1710;
  - has either an internal global positioning system (GPS) or the ability to be linked with an external GPS with a minimum accuracy rating of 16 ft. 5 in., in accordance with the circular error probability

(CEP) method (CEP is the radius of the circle with its origin at a known position that encompasses 50% of the readings returned from the GPS instrument);

- can record and print the GPS location and retroreflectivity reading for each location where readings are taken.

3.2. **Material Placement Requirements.** Use equipment that can place:

- at least 40,000 ft. of 4-in. solid or broken non-profile markings per working day at the specified thickness;
- at least 15,000 ft. of solid or broken profile pavement markings per working day at the specified thickness;
- linear non-profile markings up to 8 in. wide in a single pass;
- non-profile pavement markings other than solid or broken lines at an approved production rate;
- a centerline and no-passing barrier-line configuration consisting of 1 broken line and 2 solid lines at the same time to the alignment, spacing, and thickness for non-profile pavement markings shown on the plans;
- solid and broken lines simultaneously;
- white line from both sides;
- lines with clean edges, uniform cross-section with a tolerance of  $\pm 1/8$  in. per 4 in. width, uniform thickness, and reasonably square ends;
- skip lines between 10 and 10-1/2 ft., a stripe-to-gap ratio of 10 to 30, and a stripe-gap cycle between 39-1/2 ft. and 40-1/2 ft., automatically;
- beads uniformly and almost instantly on the marking as the marking is being applied;
- beads uniformly during the application of all lines (each line must have an equivalent bead yield rate and embedment); and
- double-drop bead applications using both Type II and Type III beads from separate independent bead applicators, unless otherwise approved by the Engineer.

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## 4. CONSTRUCTION

Place markings before opening to traffic unless short-term or work zone markings are allowed.

4.1. **General.** Obtain approval for the sequence of work and estimated daily production. Minimize interference to roadway operations when placing markings on roadways open to traffic. Use traffic control as shown on the plans or as approved. Protect all markings placed under open-traffic conditions from traffic damage and disfigurement.

Establish guides to mark the lateral location of pavement markings as shown on the plans or as directed, and have guide locations verified. Use material for guides that will not leave a permanent mark on the roadway.

Apply markings on pavement that is completely dry and passes the following tests:

- **Type I Marking Application**—Place a sample of Type I marking material on a piece of tarpaper placed on the pavement. Allow the material to cool to ambient temperature, and then inspect the underside of the tarpaper in contact with the pavement. Pavement will be considered dry if there is no condensation on the tarpaper.
- **Type II Marking Application**—Place a 1-sq. ft. piece of clear plastic on the pavement, and weight down the edges. The pavement is considered dry if, when inspected after 15 min., no condensation has occurred on the underside of the plastic.

Apply markings:

- that meet the requirements of Tex-828-B,

- that meet minimum retroreflectivity requirements when specified on the plans (applies to Type I markings only),
- using widths and colors shown on the plans,
- at locations shown on the plans,
- in proper alignment with the guides without deviating from the alignment more than 1 in. per 200 ft. of roadway or more than 2 in. maximum,
- without abrupt deviations,
- free of blisters and with no more than 5% by area of holes or voids,
- with uniform cross-section, density and thickness,
- with clean and reasonably square ends,
- that are retroreflectorized with drop-on glass beads, and
- using personnel skilled and experienced with installation of pavement markings.

Remove all applied markings that are not in alignment or sequence as stated on the plans, or in the specifications, at the Contractor's expense in accordance with Item 677, "Eliminating Existing Pavement Markings and Markers," except for measurement and payment.

4.2. **Surface Preparation.** Prepare surfaces in accordance with this Section unless otherwise shown on the plans.

4.2.1. **Cleaning for New Asphalt Surfaces and Retracing of All Surfaces.** Air blast or broom the pavement surface for new asphalt surfaces (less than 3 years old) and for retracing of all surfaces to remove loose material, unless otherwise shown on the plans. A sealer for Type I markings is not required unless otherwise shown on the plans.

4.2.2. **Cleaning for Old Asphalt and Concrete Surfaces (Excludes Retracing).** Clean old asphalt surfaces (more than 3 years old) and all concrete surfaces in accordance with Item 678, "Pavement Surface Preparation for Markings," to remove curing membrane, dirt, grease, loose and flaking existing construction markings, and other forms of contamination.

4.2.3. **Sealer for Type I Markings.** Apply a pavement sealer to old asphalt surfaces (more than 3 years old) and to all concrete surfaces before placing Type I markings on locations that do not have existing markings, unless otherwise approved. The pavement sealer may be either a Type II marking or an acrylic or epoxy sealer as recommended by the Type I marking manufacturer unless otherwise shown on the plans. Follow the manufacturer's directions for application of acrylic or epoxy sealers. Clean sealer that becomes dirty after placement by washing or in accordance with Section 666.4.2.1., "Cleaning for New Asphalt Surfaces and Retracing of All Surfaces," as directed. Place the sealer in the same configuration and color (unless clear) as the Type I markings unless otherwise shown on the plans.

4.3. **Application.** Apply markings during good weather unless otherwise directed. If markings are placed at Contractor option when inclement weather is impending and the markings are damaged by subsequent precipitation, the Contractor is responsible for all required replacement costs.

4.3.1. **Type I Markings.** Place the Type I marking after the sealer cures. Apply within the temperature limits recommended by the material manufacturer. Flush the spray head if spray application operations cease for 5 min or longer by spraying marking material into a pan or similar container until the material being applied is at the recommended temperature.

Apply on clean, dry pavements passing the moisture test described in Section 666.4.1., "General," and with a surface temperature above 50°F when measured in accordance with Tex-829-B.

4.3.1.1. **Non-Profile Pavement Markings.** Apply Type I non-profile markings with a minimum thickness of:

- 0.100 in. (100 mils) for new markings and retracing water-based markings on surface treatments involving Item 316, "Seal Coat,"

- 0.060 in. (60 mils) for retracing on thermoplastic pavement markings, or
- 0.090 in. (90 mils) for all other Type I markings.

The maximum thickness for Type I non-profile markings is 0.180 in. (180 mils). Measure thickness for markings in accordance with Tex-854-B using the tape method.

4.3.1.2. **Profile Pavement Markings.** Apply Type I profile markings with a minimum thickness of:

- 0.060 in. (60 mil) for edgeline markings, or
- 0.090 in. (90 mil) for gore and centerline/no-passing barrier line markings.

In addition, at a longitudinal spacing indicated on the plans, the markings must be profiled in a vertical manner such that the profile is transverse to the longitudinal marking direction. The profile must not be less than 0.30 in. (300 mil) nor greater than 0.50 in. (500 mil) in height when measured above the normal top surface plane of the roadway. The transverse width of the profile must not be less than 3.25 in., and the longitudinal width not less than 1 in., when measured at the top surface plane of the profile bar. The profile may be either a 1 or 2 transverse bar profile. When the 2 transverse bar profile is used, the spacing between the bases of the profile bars must not exceed 0.50 in. The above transverse bar width is for each 4 in. of line width.

4.3.2. **Type II Markings.** Apply on surfaces with a minimum surface temperature of 50°F. Apply at least 20 gal. per mile on concrete and asphalt surfaces and at least 22 gal. per mile on surface treatments for a solid 4-in. line. Adjust application rates proportionally for other widths. When Type II markings are used as a sealer for Type I markings, apply at least 15 gal. per mile using Type II drop-on beads.

4.3.3. **Bead Coverage.** Provide a uniform distribution of beads across the surface of the stripe for Type I and Type II markings, with 40% to 60% bead embedment.

4.4. **Retroreflectivity Requirements.** When specified on the plans, Type I markings must meet the following minimum retroreflectivity values for edgeline markings, centerline or no passing barrier-line, and lane lines when measured any time after 3 days, but not later than 10 days after application:

- White markings: 250 millicandelas per square meter per lux (mcd/m<sup>2</sup>/lx)
- Yellow markings: 175 mcd/m<sup>2</sup>/lx

4.5. **Retroreflectivity Measurements.** Use a mobile retroreflectometer for projects requiring minimum retroreflectivity requirements to measure retroreflectivity for Contracts totaling more than 200,000 ft. of pavement markings, unless otherwise shown on the plans. For Contracts with less than 200,000 ft. of pavement markings or Contracts with callout work, mobile or portable retroreflectometers may be used at the Contractor's discretion.

4.5.1. **Mobile Retroreflectometer Measurements.** Provide mobile measurements averages for every 0.1 miles unless otherwise specified or approved. Take measurements on each section of roadway for each series of markings (i.e., edgeline, center skip line, each line of a double line, etc.) and for each direction of traffic flow. Measure each line in both directions for centerlines on two-way roadways (i.e., measure both double solid lines in both directions and measure all center skip lines in both directions). Furnish measurements in compliance with Special Specification, "Mobile Retroreflectivity Data Collection for Pavement Markings," unless otherwise approved. The Engineer may require an occasional field comparison check with a portable retroreflectometer meeting the requirements listed above to ensure accuracy. Use all equipment in accordance with the manufacturer's recommendations and directions. Inform the Engineer at least 24 hr. before taking any measurements.

A marking meets the retroreflectivity requirements if:

- the combined average retroreflectivity measurement for a one-mile segment meets the minimum retroreflectivity values specified, and
- no more than 30% of the retroreflectivity measurement values are below the minimum retroreflectivity requirements value within the one-mile segment.

The Engineer may accept failing one-mile segments if no more than 20% of the retroreflectivity measurements within that mile segment are below the minimum retroreflectivity requirement value.

The one-mile segment will start from the beginning of the data collection and end after a mile worth of measurements have been taken; each subsequent mile of measurements will be a new segment. Centerlines with 2 stripes (either solid or broken) will result in 2 miles of data for each mile segment. Each centerline stripe must be tested for compliance as a stand-alone stripe.

Restripe at the Contractor's expense with a minimum of 0.060 in. (60 mils) of Type I marking if the marking fails retroreflectivity requirements. Take measurements every 0.1 miles a minimum of 10 days after this second application within that mile segment for that series of markings.

If the markings do not meet minimum retroreflectivity after 10 days of this second application, the Engineer may require removal of all existing markings, a new application as initially specified, and a repeat of the application process until minimum retroreflectivity requirements are met.

4.5.2. **Portable Retroreflectometer Measurements.** Take a minimum of 20 measurements for each 1-mi. section of roadway for each series of markings (i.e., edgeline, center skip line, each line of a double line, etc.) and direction of traffic flow when using a portable reflectometer. Measure each line in both directions for centerlines on two-way roadways (i.e., measure both double solid lines in both directions and measure all center skip lines in both directions). The spacing between each measurement must be at least 100 ft. The Engineer may decrease the mileage frequency for measurements if the previous measurements provide satisfactory results. The Engineer may require the original number of measurements if concerns arise.

Restripe once at the Contractor's expense with a minimum of 0.060 in. (60 mils) of Type I marking material if the average of these measurements fails. Take a minimum of 10 more measurements after 10 days of this second application within that mile segment for that series of markings. Restripe again at the Contractor's expense with a minimum of 0.060 in. (60 mils) of Type I marking material if the average of these measurements fall below the minimum retroreflectivity requirements. If the markings do not meet minimum retroreflectivity after this third application, the Engineer may require removal of all existing markings, a new application as initially specified, and a repeat of the application process until minimum retroreflectivity requirements are met.

4.5.3. **Traffic Control.** Provide traffic control, as required, when taking retroreflectivity measurements after marking application. On low volume roadways (as defined on the plans), refer to the figure, "Temporary Road Closure" in Part 6 of the *Texas Manual on Uniform Traffic Control Devices* for the minimum traffic control requirements. For all other roadways, the minimum traffic control requirements will be as shown on the Traffic Control Plan (TCP) standard sheets TCP (3-1) and TCP (3-2). The lead vehicle will not be required on divided highways. The TCP and traffic control devices must meet the requirements listed in Item 502, "Barricades, Signs, and Traffic Handling." Time restrictions that apply during striping application will also apply during the retroreflectivity inspections except when using the mobile retroreflectometer unless otherwise shown on the plans or approved.

4.6. **Performance Period.** All markings must meet the requirements of this specification for at least 30 calendar days after installation. Unless otherwise directed, remove pavement markings that fail to meet requirements, and replace at the Contractor's expense. Replace failing markings within 30 days of notification. All replacement markings must also meet all requirements of this Item for a minimum of 30 calendar days after installation.

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## 5. MEASUREMENT

This Item will be measured by the foot; by each word, symbol, or shape; or by any other unit shown on the plans. Each stripe will be measured separately.

This is a plans quantity measurement item. The quantity to be paid is the quantity shown in the proposal unless modified by Article 9.2., "Plans Quantity Measurement." Additional measurements or calculations will be made if adjustments of quantities are required.

Acrylic or epoxy sealer, or Type II markings when used as a sealer for Type I markings, will be measured by the foot; by each word, symbol, or shape; or by any other unit shown on the plans.

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## **6. PAYMENT**

The work performed and materials furnished in accordance with this Item and measured as provided under "Measurement" will be paid for at the unit price bid for "Pavement Sealer" of the size specified, "Retroreflectorized Pavement Markings" of the type and color specified and the shape, width, size, and thickness specified as applicable, "Retroreflectorized Pavement Markings with Retroreflective Requirements" of the types, colors, sizes, widths, and thicknesses specified or "Retroreflectorized Profile Pavement Markings" of the various types, colors, shapes, sizes, and widths specified.

This price is full compensation for application of pavement markings, materials, equipment, labor, tools, and incidentals.

Surface preparation of new concrete and asphalt concrete pavements more than 3 years old, where no stripe exists, will be paid for under Item 678, "Pavement Surface Preparation for Markings." Surface preparation of all other asphalt and old concrete pavement, except for sealing, will not be paid for directly but is subsidiary to this Item.

Work zone pavement markings (Type II, paint and beads) used as a sealer for Type I markings (thermoplastic) will be paid for under Item 662, "Work Zone Pavement Markings."

If the Engineer requires that markings be placed in inclement weather, repair or replacement of markings damaged by the inclement weather will be paid for in addition to the original plans quantity.

# Item 672

## Raised Pavement Markers



### 1. DESCRIPTION

Furnish and install raised pavement markers (RPMs).

### 2. MATERIALS

2.1. **Markers.** Furnish RPMs in accordance with the following Department Material Specifications:

- **Reflectorized Pavement Markers.** DMS-4200, "Pavement Markers (Reflectorized)," types I-A, I-C, I-R, II-A-A, and II-C- R.
- **Traffic Buttons.** DMS-4300, "Traffic Buttons," types I-A, I-C, I-R, II-A-A, II-C- R, W, Y and B. Round or oval unless otherwise specified on the plans.
- **Plowable Reflectorized Pavement Markers.** DMS-4210, "Snowplowable Pavement Markers," types I-A, I-C, I-R, II-A-A, and II-C- R.

The following are descriptions for each type of RPM:

- **Type I-A.** The approach face must retro-reflect amber light. The body, other than the retro-reflective face, must be yellow.
- **Type I-C.** The approach face must retro-reflect white light. The body, other than the retro-reflective face, must be white or silver-white.
- **Type I-R.** The trailing face must retro-reflect red light. The body, other than the retro-reflective face, must be white or silver-white, except for I-R plowable markers which may be black.
- **Type II-A-A.** The 2 retro-reflective faces (approach and trailing) must retro-reflect amber light. The body, other than the retro-reflective faces, must be yellow.
- **Type II-C-R.** Contain 2 retro-reflective faces with an approach face that must retro-reflect white light and a trailing face that must retro-reflect red light. The body, other than the retro-reflective faces, must be white or silver-white.
- **Type W.** Must have a white body and no reflective faces.
- **Type Y.** Must have a yellow body and no reflective faces.
- **Type B.** Must have a black body and no reflective faces.

2.2. **Adhesives.** Furnish adhesives that conform to the following requirements:

- DMS-6100, "Epoxies and Adhesives," Type II—Traffic Marker Adhesives.
- DMS-6130, "Bituminous Adhesive for Pavement Markers."
- The Contractor may propose alternate adhesive materials for consideration and approval.

2.3. **Sampling.** The Engineer will sample in accordance with Tex-729-I.

### 3. CONSTRUCTION

Remove existing RPMs in accordance with Item 677, "Eliminating Existing Pavement Markings and Markers," except for measurement and payment. Furnish RPMs for each class from the same manufacturer. Prepare all surfaces in accordance with Item 678, "Pavement Surface Preparation for Markings," when shown on the plans. Ensure the bond surfaces are free of dirt, curing compound, grease, oil, moisture, loose or unsound pavement markings, and any other material that would adversely affect the adhesive bond.

Establish pavement marking guides to mark the lateral location of RPMs as shown on the plans and as directed. Do not make permanent marks on the roadway for the guides.

Place RPMs in proper alignment with the guides. Acceptable placement deviations are shown on the plans. Remove RPMs

placed out of alignment or sequence, as shown on the plans or stated in this specification, at Contractor's expense, in accordance with Item 677, "Eliminating Existing Pavement Markings and Markers" (except for measurement and payment).

Use the following adhesive materials for placement of reflectorized pavement markers, and traffic buttons unless otherwise shown on the plans:

- standard or flexible bituminous adhesive for applications on bituminous pavements, and
- epoxy adhesive or flexible bituminous adhesive for applications on hydraulic cement concrete pavements.

Use epoxy adhesive for plowable reflectorized pavement markers. Apply enough

adhesives to:

- ensure that 100% of the bonding area of RPMs is in contact with the adhesive, and
- ensure that RPMs, except for plowable markers, are seated on a continuous layer of adhesive and not in contact with the pavement surface.

Apply adhesives in accordance with manufacturer's recommendations unless otherwise required by this Article. Apply bituminous adhesive only when pavement temperature and RPM temperature are 40°F or higher. Do not heat bituminous adhesive above 400°F. Machine agitate bituminous adhesive continuously before application to ensure even heat distribution.

Machine-mix epoxy adhesive. Apply epoxy adhesive only when pavement temperature is 50°F or higher. Furnish RPMs free of rust, scale, dirt, oil, grease, moisture, and contaminants that might adversely affect the adhesive bond.

Place RPMs immediately after the adhesive is applied and ensure proper bonding. Do not use adhesives or any other material that impairs the functional retro-reflectivity of the RPMs.

Provide a 30-day performance period that begins the day following written acceptance for each separate location. The date of written acceptance will be the last calendar day of each month for the RPMs installed that month for the completed separate project locations. This written acceptance does not constitute final acceptance.

Replace all missing, broken or non-reflective RPMs. Visual evaluations will be used for these determinations. Upon request, the Engineer will allow a Contractor representative to accompany the Engineer on these evaluations.

The Engineer may exclude RPMs from the replacement provisions of the performance, provided the Engineer determines the failure is a result of causes other than defective material or inadequate installation procedures. Examples of outside causes are extreme wear at intersections, damage by snow or ice removal, and pavement failure.

Replace all missing or non-reflective RPMs identified during the performance period within 30 days after notification. The end of the performance period does not relieve the Contractor from the performance deficiencies requiring corrective action identified during the performance period.

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**4. MEASUREMENT**

This Item will be measured by each RPM.

This is a plans quantity measurement Item. The quantity to be paid is the quantity shown in the proposal, unless modified by Article 9.2., "Plans Quantity Measurement." Additional measurements or calculations will be made if adjustments are required.

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**5. PAYMENT**

The work performed and materials furnished in accordance with this Item and measured as provided under "Measurement" will be paid for at the unit price bid for "Reflectorized Pavement Marker," "Traffic Button," or "Plowable Reflectorized Pavement Marker" of the types specified. This price is full compensation for removing existing markers; furnishing and installing RPMs; and materials, equipment, labor, tools, and incidentals.

No additional payment will be made for replacement of RPMs failing to meet the performance requirements.

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## Item 677

# Eliminating Existing Pavement Markings and Markers



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### 1. DESCRIPTION

Eliminate existing pavement markings and raised pavement markers (RPMs).

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### 2. MATERIALS

Furnish surface treatment materials in accordance with the following Items:

- Item 300, "Asphalts, Oils, and Emulsions"
- Item 302, "Aggregates for Surface Treatments"
- Item 316, "Seal Coat"

Use approved patching materials for repairing damaged surfaces.

Use a commercial abrasive blasting medium capable of producing the specified surface cleanliness. Use potable water when water is required.

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### 3. EQUIPMENT

Furnish and maintain equipment in good working condition. Use moisture and oil traps in air compression equipment to remove all contaminants from the blasting air and prevent the deposition of moisture, oil, or other contaminants on the roadway surface.

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### 4. CONSTRUCTION

Eliminate existing pavement markings and markers on both concrete and asphaltic surfaces in such a manner that color and texture contrast of the pavement surface will be held to a minimum. Remove all markings and markers with minimal damage to the roadway to the satisfaction of the Engineer. Repair damage to asphaltic surfaces, such as spalling, shelling, etc., greater than 1/4 in. deep resulting from the removal of pavement markings and markers. Dispose of markers in accordance with federal, state, and local regulations. Use any of the following methods unless otherwise shown on the plans:

- 4.1. **Surface Treatment Method.** Apply surface treatment material at rates shown on the plans, or as directed. Place a surface treatment a minimum of 2 ft. wide to cover the existing marking. Place a surface treatment, thin overlay, or microsurfacing a minimum of one lane in width in areas where directional changes of traffic are involved or other areas as directed.
- 4.2. **Burn Method.** Use an approved burning method. For thermoplastic pavement markings or prefabricated pavement markings, heat may be applied to remove the bulk of the marking material before blast cleaning. When using heat, avoid spalling pavement surfaces. Sweeping or light blast cleaning may be used to remove minor residue.
- 4.3. **Blasting Method.** Use a blasting method such as water blasting, abrasive blasting, water abrasive blasting, shot blasting, slurry blasting, water-injected abrasive blasting, or brush blasting as approved. Remove pavement markings on concrete surfaces by a blasting method.
- 4.4. **Mechanical Method.** Use any mechanical method except grinding. Flail milling is acceptable in the removal of markings on asphalt and concrete surfaces.

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**5. MEASUREMENT**

This Item will be measured by each word, symbol, or shape eliminated; by the foot of marking eliminated; or by any other unit shown on the plans.

This is a plans quantity measurement Item. The quantity to be paid is the quantity shown in the proposal unless modified by Article 9.2., "Plans Quantity Measurement." Additional measurements or calculations will be made if adjustments of quantities are required.

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**6. PAYMENT**

The work performed and materials furnished in accordance with this Item and measured as provided under "Measurement" will be paid for at the unit price bid for "Eliminating Existing Pavement Markings and Markers" of the type and width as applicable. This price is full compensation for the elimination method used and materials, equipment, tools, labor, and incidentals. Removal of RPMs will not be paid for directly but will be subsidiary to the pertinent bid items.

**Exhibit "A"**  
**Hidalgo County**  
**"Striping/Markings of County Roads, County Owned Parking Lots & Misc. County Owned Sites"**  
**RFB No.: 2020-033-09-02-HAG**  
**(NIGP CODE: 968-61)**

**SCOPE OF SERVICES:**

The services contract will encompass all project-related labor and materials for "Striping/Markings of County Roads, County Parking Lots, & Misc. County Owned Sites" for the County of Hidalgo including, but not limited to, the following:

**REQUIREMENTS:**

1. All Striping/Markings of County Roads, County Parking Lots, & Misc. County Owned Sites **must be in accordance with all applicable TxDOT Pavement Marking standards mentioned herein but not limited to.**
2. Striping/Markings of county roads, county owned parking lots, & miscellaneous county owned sites will be on an **as needed and as requested basis only.**
3. Delivery hours will be arranged with requestor when requiring Striping/Markings of county roads, county parking lots, and miscellaneous county owned sites.
4. Hidalgo County reserves the right to award the bid to one bidder or to multiple bidders if the County determines it is in its best interest to do so.
5. 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 be cancellation.
6. 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.
7. **Insurance (requirements) certificates** must be submitted to Hidalgo County Purchasing Department for approval prior to any services being performed which is applicable to the awarded bidder in accordance to **Exhibit "C" attached.** Insurance certificates must be maintained throughout the contract term.
8. The bidder(s) awarded the contract **cannot** engage the services of a **subcontractor without prior written consent of Hidalgo County** for retention of a subcontractor to perform services hereunder. The successful bidder(s) must present evidence that the proposed subcontractor possesses all the necessary licenses and permits to perform the services and that the subcontractor has obtained the required insurance coverages as outlined in Exhibit "C".

9. Hidalgo County reserves the right to hold bids for a period of ninety (90) days without taking any action.
10. Hidalgo County has the authority to utilize State contracts or any other cooperative purchasing programs, whenever it is in the best interest of the County to do so.

**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 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 not 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 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 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.

## **GENERAL TERMS & CONDITIONS**

**TERM:** The contract will be in effect for a period of (1) one year with the County's sole option to extend for two (2) additional (1) one year terms. 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 next contract term.

**PROPOSER'S AFFIDAVIT:** Respondent's to this RFB must submit a signed Proposer's Affidavit (attached herein as Exhibit "J") certifying that the submission is one (1) not the result of Collusion as described in the Proposer's Affidavit; two (2) that the Respondent does not have a Conflict of Interest as described in the Proposer's Affidavit; or (3) that the Respondent has not and will no attempt to lobby directly or indirectly as described in the Proposer's Affidavit.

**NON-DISCRIMINATION:** Submitters, during the performance of this contract, will not discriminate against any employee, or applicant for employment, because of race, religion, color, national origin, sex, age, disability or any other protected class under law (except as allowed in the case of bona fide occupational qualifications). By submitting a response to this Request, Submitter certifies that it will conform to the provisions of the Federal Civil Rights Act of 1964, as amended and related state and federal law.

**PROCESSING TIME FOR PAYMENT:** Respondents are advised that a minimum of thirty (30) days is required to process invoices for payment.

**ELECTRICAL TRANSMISSION OF PROPOSAL:** Hidalgo County's Purchasing Department **will not** accept telegraphic or electrically transmitted submissions.

**PROOF OF FINANCIAL AND BUSINESS CAPACBILITY:** Respondents must, upon request, furnish satisfactory evidence of their ability to furnish products or services in accordance with the terms and conditions of these requirements. Hidalgo County will make the final determination as to the respondent's ability.

**RFB DELIVERY:** Hidalgo County requires respondents, when hand-delivering sealed proposals, to have a Purchasing Department representative time/date stamp and initial the sealed envelope and/or sealed package.

**SIGNING OF PROPOSAL:** In order to be considered all proposals **must** be signed. **Please sign the ORIGINAL IN blue ink.**

**SUBCONTRACTING – ASSIGNMENTS:** The successful respondents may not subcontract the award without the written consent of the Commissioners’ Court of Hidalgo County.

**DAVIS BACON ACT or HIDALGO COUNTY ADOPTED PREVAILING WAGE RATE: (If Applicable)** In accordance with Chapter 2258 of the Texas Government Code, as well as any other applicable laws, all selected and awarded firms are required to include the appropriate prevailing wage rate (Davis Bacon Act rates or the rates adopted by the County of Hidalgo) when advertising and developing project specifications.

**ADDITIONAL INFORMATION:**

Respondents must complete and include in their responses all documentation requested in this RFB. Refer to enclosed RFB Submittal Checklist form for documents to be included with your response. All costs and expenses associated with the preparation and submission of bids shall be the responsibility of the bidder and no reimbursements for such charges or expenses shall be passed on to Hidalgo County.

Further information required for this project can be addressed to, Hector Garcia, Contract Specialist III, Hidalgo County Purchasing Department (956) 318-2626. Hidalgo County is requesting that any and all questions, inquiries, and clarifications regarding quotes, bids, proposals, or statement of qualifications be addressed to Martha L. Salazar, Purchasing Agent, 2802 S Hwy Bus Hwy 281, Edinburg, Texas 78539. **TELEPHONE INQUIRIES WILL NOT BE ACCEPTED.**

**ALL WRITTEN INQUIRIES WILL BE ACCEPTED VIA FACSIMILE OR VIA EMAIL TO: [hector.garcia1@co.hidalgo.tx.us](mailto:hector.garcia1@co.hidalgo.tx.us) ; NO LATER THAN, Monday August 24, 2020, 5:00 P.M.** Responses will be sent to all applicants via email by no later than, **5:00 P.M., Thursday, August 27, 2020.**

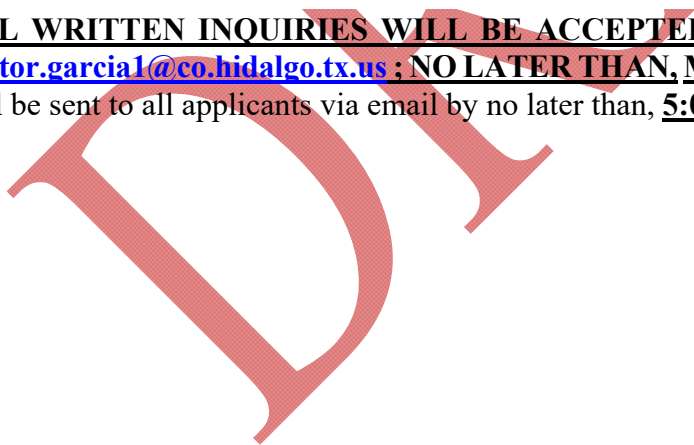


EXHIBIT "B"  
 BID PAGE  
 HIDALGO COUNTY  
 "STRIPING/MARKINGS OF COUNTY ROADS, PARKING LOTS, & MISC. COUNTY OWNED SITES"  
 BID NO.:2020-033-09-02-HAG

<b>The following are the minimum acceptable specifications:            "Striping/Markings of County Roads County Parking Lots &amp; Misc. County Owned Sites"</b>		
ITEM SPECIFICATION	BID PRICE	UNIT
<b>NOTES: Thermoplastic Application for all Yellow/White : Hot Sprayed (Optional for Roads)</b>		
TY-I – 4" Yellow Line Solid (TxDOT Spec 666)	\$	LF.
TY-I – 4" White Line Solid (TxDOT Spec 666)	\$	LF.
TY-I – 4" Yellow Broken (TxDOT Spec 666)	\$	LF.
TY-I – 4" White Broken (TxDOT Spec 666)	\$	LF.
4" Pavement Marking Removal (TxDOT Spec 677)	\$	LF.
4" Pavement Marking Sealer (TxDOT Spec 666)	\$	LF.
TY-I – 6" Yellow Line Solid (TxDOT Spec 666)	\$	LF.
TY-I – 6" White Line Solid (TxDOT Spec 666)	\$	LF.
TY-I – 6" Yellow Broken (TxDOT Spec 666)	\$	LF.
TY-I – 6" White Broken (TxDOT Spec 666)	\$	LF.
6" Pavement Marking Removal (TxDOT Spec 677)	\$	LF.
6" Pavement Marking Sealer (TxDOT Spec 666)	\$	LF.
TY-I – 8" Yellow Line Solid (TxDOT Spec 666)	\$	LF.
TY-I – 8" White Line Solid (TxDOT Spec 666)	\$	LF.
TY-I – 8" Yellow Broken (TxDOT Spec 666)	\$	LF.
TY-I – 8" White Broken (TxDOT Spec 666)	\$	LF.
8" Pavement Marking Removal (TxDOT Spec 677)	\$	LF.
8" Pavement Marking Sealer (TxDOT Spec 666)	\$	LF.
TY-I – 12" Yellow Line Solid (TxDOT Spec 666)	\$	LF.
TY-I – 12" White Line Solid (TxDOT Spec 666)	\$	LF.
12" Pavement Marking Removal (TxDOT Spec 677)	\$	LF.
12" Pavement Marking Sealer (TxDOT Spec 666)	\$	LF.
TY-I – 24" Yellow Line Solid (TxDOT Spec 666)	\$	LF.
TY-I – 24" White Line Solid (TxDOT Spec 666)	\$	LF.
24" Pavement Marking Removal (TxDOT Spec 677)	\$	LF.

EXHIBIT "B"  
 BID PAGE  
 HIDALGO COUNTY  
 "STRIPING/MARKINGS OF COUNTY ROADS, PARKING LOTS, & MISC. COUNTY OWNED SITES"  
 BID NO.:2020-033-09-02-HAG

24" Pavement Marking Sealer (TxDOT Spec 666)	\$	LF.
TY-I-Left/Right/Straight Arrows White (TxDOT Spec 666)	\$	EA.
Removal Left/Right/Straight Arrows (TxDOT Spec 677)	\$	EA.
Left/Right/Straight Arrows Sealer (TxDOT Spec 666)	\$	EA.
TY-I WORD ONLY White (TxDOT Spec 666)	\$	EA.
TY-I WORD STOP White (TxDOT Spec 666)	\$	EA.
Removal WORD ONLY (TxDOT Spec 666)	\$	EA.
Removal WORD STOP (TxDOT Spec 677)	\$	EA.
WORD ONLY Pavement Marking Sealer (TxDOT Spec 666)	\$	EA.
WORD STOP Pavement Marking Sealer (TxDOT Spec 666)	\$	EA.
RPM TYPE II CR (TxDOT Spec 672)	\$	EA.
RPM TYPE II CR Removal (TxDOT Spec 677)	\$	EA.
RPM TYPE II AA (TxDOT Spec 672)	\$	EA.
RPM TYPE II AA Removal (TxDOT Spec 677)	\$	EA.
RPM TYPE II IC (TxDOT Spec 672)	\$	EA.
RPM TYPE II IC Removal (TxDOT Spec 677)	\$	EA.
RPM TYPE II BB (TxDOT Spec 672)	\$	EA.
RPM TYPE II BB Removal (TxDOT Spec 677)	\$	EA.
4" yellow or white reflectorized paint	\$	FT.
4" yellow or white thermo plastic	\$	LF.
4" reflectors yellow or white	\$	EA.
24" white paint stripe	\$	EA.
Thermoplastic arrows	\$	EA.
6" x 6" Jiggle Bar Tile, yellow or white	\$	EA.
24" white Thermoplastic stripe	\$	LF.
Thermoplastic Words: (include) <b>ONLY, SCHOOL, ZONE, SLOW, STOP, AHEAD</b> and <b>RAILROAD</b>	\$	EA.

EXHIBIT "B"  
 BID PAGE  
 HIDALGO COUNTY  
 "STRIPING/MARKINGS OF COUNTY ROADS, PARKING LOTS, & MISC. COUNTY OWNED SITES"  
 BID NO.:2020-033-09-02-HAG

The "Striping/Markings of County Roads, County Parking Lots & Misc. County Owned Site" contract will, from now on, include the striping of parking lots which will include, but not be limited to:		
ITEM SPECIFICATION	BID PRICE	UNIT
<b>NOTES: Thermoplastic Application for all Yellow/White: Gravity Extrusion (Optional for parking lots)</b>		
4" yellow or white non-reflectorized paint	\$	LF.
4" yellow or white car spaces	\$	EA.
Arrows	\$	EA.
"Reserved" painted on curb	\$	EA.
Handicap Symbols	\$	EA.
Crosshatched Islands	\$	EA.
Painted Curb (red & yellow)	\$	FT.
Repaint Car Stops	\$	EA.
"No Parking" (3' Letters)	\$	EA.
Handicap Symbols Pre Fab Thermal 2-color	\$	EA.
Fire Lane	\$	EA.
No parking on red curb	\$	EA.
Cross walk crossing (white or yellow paint) 12"	\$	LF.
Cross walk crossing (white or yellow thermoplastic) 12"	\$	LF.
Parking Lot	\$	EA.
Parking Lot Crossing	\$	EA.
Crossing from ADA to Facility	\$	EA.

**LEGEND** \*LF-Linear Feet /EA.-Each/ FT.-Feet

**BIDDERS INFORMATION**

BIDDER/COMPANY NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY/STATE/ZIP CODE: \_\_\_\_\_

PHONE NUMBER: \_\_\_\_\_

E-MAIL ADDRESS: \_\_\_\_\_

CELLULAR NUMBERS: \_\_\_\_\_

FAX NUMBER: \_\_\_\_\_

AUTHORIZED SIGNATURE: \_\_\_\_\_

PRINTED NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

DRAFT

EXHIBIT "C"  
INSURANCE REQUIREMENTS

**EXHIBIT "C"**  
**Insurance Requirements**  
**Applicable to the Acquisition of Goods and/or Services**  
**(Other than Professional Services)**

The Bidder awarded the contract shall furnish proof of insurance, which will also include any subcontractor that is subcontracted by the bidder in at least the following limits, to be in place prior to providing any services under this Contract and to continue at all times in force in effect during the term of this Contract and any extension hereof:

1. **Comprehensive General Liability insurance** policy with limits of not less than Five Hundred Thousand Dollar (\$500,000.00) providing additional coverage to all underlying liabilities of County. Policy shall cover, but not be limited to, Bidder's activities in providing the Services for County; all persons, vehicles, equipment connected with providing Services; and theft or loss of Bidder's property.
  2. **Automobile liability insurance** policy, covering all owned, non-owned or hired/leased automobiles, with limits of at least Three Hundred Thousand Dollars (\$300,000.00) per person and Five Hundred Thousand Dollars (\$500,000.00) per occurrence. Coverage should include injury to or death of persons and property damage claims with limits up to five Hundred Thousand (\$500,000.00) arising out of the services provide d to County hereunder.
  3. **Uninsured/Underinsured motorist coverage** in an amount equal to the auto liability limits set forth immediately above;
  4. **Workers Compensation Insurance:** Workers Compensation insurance in amounts established by Texas law, unless the Bidder is specifically exempted from the Texas Workers Compensation Act, Texas Labor Code Chapter 401, et. seq. Workers Compensation policies must include other States Endorsement to include TEXAS if the business is domiciled outside the State of Texas.
- *Bidder shall obtain and maintain any and all other insurances which may be necessary in providing the good/service applicable to this procurement or are otherwise required by law.*
  - *Any and all insurance policies shall be in amounts prescribed by law or otherwise specified by the County, but in no event less than the minimum amounts prescribed by law.*

**Additional Insurance Requirements:**

- a. Bidder shall furnish to County certificate(s) of insurance, and all renewals throughout the duration of the Project, issued by the insurer that such insurance is in full force and effect.
- b. Certificates of insurance shall be submitted to County for approval prior to any services being performed by Bidder.
- c. **Hidalgo County will only accept certificates of insurance on an Acord form (as attached hereto).**

**Page 2 of 2: Continuation of Exhibit “C”: Insurance Requirements Applicable to the Acquisition of Goods and/or Services (Other than Professional Services)**

- d. For each policy, except Workers’ Compensation, Bidder shall name the County as an additional insured.
- e. Each policy of insurance required hereunder shall extend for a period equivalent to, or longer than the term of the Contract, and any insurer hereunder shall be required to give at least thirty (30) days written notice to the County prior to the cancellation of any such coverage on the termination date, or otherwise.
- f. This Contract shall be automatically suspended upon the cancellation, or other termination, of any required policy of insurance hereunder, and such suspension shall continue until evidence of adequate replacement coverage is provided to County. If replacement coverage is not provided within thirty (30) days following suspension of the Contract, this Contract shall automatically terminate.
- g. All insurance policies will be endorsed to provide a waiver of subrogation in favor of the County.
- h. County reserves the right to review the insurance requirements of this section during the effective period of the contract and to require adjustment of insurance coverage and their limits when deemed necessary and prudent by County based upon changes in statutory law, court decisions, or the claims history of the industry as well as the Bidder.
- i. Insurance policies shall be obtained at Bidder’s sole expense. County does not maintain and will not obtain insurance of any type to protect Bidder against loss, damage or injury that may in any way result from Bidders performance of the services.
- j. In no event shall the County be liable for any loss, damage to or destruction of any property belonging to the Bidder.
- k. Bidder is responsible for ensuring all required insurance policies are valid for the duration of the contract.
- l. All insurance policies are to be issued by an insurance company authorized to do business in the State of Texas and acceptable to County.
- m. Bidder shall make any other insurance documentation available to County upon request.

**ACORD** **CERTIFICATE OF INSURANCE** DATE (MM/DD/YY)

PRODUCER	<p><b>THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.</b></p>
INSURED	<b>INSURERS AFFORDING COVERAGE</b>
	INSURER A:
	INSURER B:
	INSURER C:
	INSURER D:
	INSURER E:

**COVERAGES**

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THEIR TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	<b>GENERAL LIABILITY</b>				EACH OCCURRENCE \$
	<input type="checkbox"/> COMMERCIAL GENERAL LIABILITY				FIRE DAMAGE (Any one fire) \$
	<input type="checkbox"/> CLAIMS MADE OCCUR				MEDICAL (Any one person) \$
	<input type="checkbox"/> OWNER'S & CONT. PROT				PERSONAL & ADV INJURY \$
	<input type="checkbox"/> OWNER'S PROTECTIVE LIABILITY				GENERAL AGGREGATE \$
	<input type="checkbox"/> GEN'L AGGREGATE LIMIT APPLIES PER:				PRODUCTS - COMP/OP \$
	<input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC				
B	<b>AUTOMOBILE LIABILITY</b>				COMBINED SINGLE LIMIT (Ea accident) \$
	<input type="checkbox"/> ANY AUTO				BODILY INJURY (Per person) \$
	<input type="checkbox"/> ALL OWNED AUTOS				BODILY INJURY (Per accident) \$
	<input type="checkbox"/> SCHEDULED AUTOS				PROPERTY DAMAGE (Per accident) \$
	<input type="checkbox"/> HIRED AUTOS				
<input type="checkbox"/> NON-OWNED AUTOS					
C	<b>GARAGE LIABILITY</b>				AUTO ONLY-EA ACCIDENT \$
	<input type="checkbox"/> ANY AUTO				OTHER THAN AUTO ONLY EA ACC AGG \$
D	<b>EXCESS LIABILITY</b>				EACH OCCURRENCE \$
	<input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE				AGGREGATE \$
	<input type="checkbox"/> DEDUCTIBLE				\$
	<input type="checkbox"/> RETENTION \$				\$
					\$
E	<b>WORKERS COMPENSATION AND EMPLOYER'S LIABILITY</b>				WC STATUTORY LIMITS <input type="checkbox"/> OTHER \$
					E.L. EACH ACCIDENT \$
					E.L. DISEASE-EA EMPLOYEE \$
					E.L. DISEASE-POLICY LIMIT \$
	<b>OTHER</b>				

DESCRIPTION OF OPERATIONS / LOCATION / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS  
**County of Hidalgo shall be named as additional insured on all Commercial General Liability policies.**

CERTIFICATE HOLDER	ADDITIONAL INSURED; INSURER LETTER: _____	CANCELLATION
<b>Hidalgo County</b> <b>Attn: Purchasing Department</b> <b>2812 S Highway Bus. 281</b> <b>Edinburg, Texas 78539</b>		SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BY CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL <b>30</b> DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE

# Insurance Requirement Acknowledgment

I, \_\_\_\_\_, authorized representative for \_\_\_\_\_,  
Company/Vendor

hereby acknowledge receipt of the County's required insurance limits. Said requirements:

- will be acquired within 10 working days after notification from Purchasing Department of bid awarded by the Hidalgo County Commissioners' Court;
- will acquire additional amounts required to meet the County's requirements within 10 working days after notification from Purchasing Department of bid award by the Hidalgo County Commissioners' Court; currently carry the following:

Automobile Liability: \$ \_\_\_\_\_ General Liability: \$ \_\_\_\_\_

- have already been met, see attached copy of insurance certificate.

\_\_\_\_\_  
Authorized Representative

\_\_\_\_\_  
Date

## **Notice to Bidder:**

A certificate of insurance for the required insurance limits shall be provided to the Purchasing Department's Contract Managers in order to qualify for award of bid and to execute a contract between your Company and the County

Failure to provide Certificates of Insurance to the Purchasing Department's Contract Managers will cause the bid award to be rescinded and re-awarded to next lowest bidder. Certificates of Insurance will be monitored and verified on a **quarterly basis** to ensure coverage policy is in place. It is the Company's obligation to maintain the appropriate insurance coverage throughout the term of the contract.

**THIS FORM MUST ACCOMPANY BID PACKET**

**PROJECT REQUIREMENTS  
ACKNOWLEDGMENT**

This is to certify that I, \_\_\_\_\_, possess all of the APPLICABLE:

1. Licenses: \_\_\_\_\_.

2. Bond (if applicable) \_\_\_\_\_

3. Certificates: \_\_\_\_\_.

4. Permits: \_\_\_\_\_.

5. Other: \_\_\_\_\_.

necessary to carry out the required project. Furthermore, I am providing copies of the required documentation so that, if my company is awarded this bid, I may be eligible to enter into a contract with Hidalgo County and proceed to complete the project in a timely manner.

\* Any licenses, bonds (if applicable), certificates, permits, etc. which are required must be presented as part of the bid packet in order to expedite the bid evaluation process.

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Company

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State, Zip

**THIS FORM MUST ACCOMPANY BID PACKET**

EXHIBIT "D"  
(CIQ) CONFLICT OF INTEREST

# CONFLICT OF INTEREST QUESTIONNAIRE

For vendor doing business with local governmental entity

## FORM CIQ

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.

A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

### OFFICE USE ONLY

Date Received

**1** Name of vendor who has a business relationship with local governmental entity.

**2**  Check this box if you are filing an update to a previously filed questionnaire. (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

**3** Name of local government officer about whom the information is being disclosed.

\_\_\_\_\_  
Name of Officer

**4** Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?

Yes       No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?

Yes       No

**5** Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.

**6**  Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).

**7**

\_\_\_\_\_  
Signature of vendor doing business with the governmental entity

\_\_\_\_\_  
Date

## **CONFLICT OF INTEREST QUESTIONNAIRE**

### **For vendor doing business with local governmental entity**

A complete copy of Chapter 176 of the Local Government Code may be found at <http://www.statutes.legis.state.tx.us/Docs/LG/htm/LG.176.htm>. For easy reference, below are some of the sections cited on this form.

**Local Government Code § 176.001(1-a):** "Business relationship" means a connection between two or more parties based on commercial activity of one of the parties. The term does not include a connection based on:

- (A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;
- (B) a transaction conducted at a price and subject to terms available to the public; or
- (C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

**Local Government Code § 176.003(a)(2)(A) and (B):**

(a) A local government officer shall file a conflicts disclosure statement with respect to a vendor if:

\*\*\*

(2) the vendor:

(A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds \$2,500 during the 12-month period preceding the date that the officer becomes aware that

- (i) a contract between the local governmental entity and vendor has been executed;
- or
- (ii) the local governmental entity is considering entering into a contract with the vendor;

(B) has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than \$100 in the 12-month period preceding the date the officer becomes aware that:

- (i) a contract between the local governmental entity and vendor has been executed; or
- (ii) the local governmental entity is considering entering into a contract with the vendor.

**Local Government Code § 176.006(a) and (a-1)**

(a) A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with a local governmental entity and:

- (1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);
- (2) has given a local government officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1); or
- (3) has a family relationship with a local government officer of that local governmental entity.

(a-1) The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the later of:

(1) the date that the vendor:

- (A) begins discussions or negotiations to enter into a contract with the local governmental entity; or
- (B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or

(2) the date the vendor becomes aware:

- (A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);
- (B) that the vendor has given one or more gifts described by Subsection (a); or
- (C) of a family relationship with a local government officer.

EXHIBIT "E"  
VENDOR/BIDDER APPLICATION  
W-9



**HISTORICALLY UNDERUTILIZED BUSINESS (HUB) DECLARATION**

The primary objective of the Hidalgo County HUB Program is to ensure Historically Underutilized Businesses receive a fair and equal opportunity for participation in the County's procurement process. This fact holds true for Services (Professional & Non-Professional), Commodities, and Construction contracts and any subcontracts thereto. The program strongly encourages Prime Contractors to provide subcontracting opportunities to Certified Hub Contractors/Vendors. Our goal for HUB contractor/vendor participation, as well as HUB subcontractor participation is 30%. To be considered as a "Certified HUB Contractor/Vendor" the contractor/vendor must have been certified by, and hold a current and valid certification with any of the three agencies listed below.

Have you been Certified as a HUB or an MBE/WBE source?:  Yes  No

If yes, by whom?:  Texas Building & Procurement Commission  Other \_\_\_\_\_

Indicate Certification No(s): \_\_\_\_\_ or Are Certificate(s) Attached?:  Yes  No

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**LIST OF CERTIFIED HUB SUBCONTRACTORS**

(Attach additional pages if necessary)

What percentage of the Bid, RFP, or RFQ is to be subcontracted with Certified HUB sources?: \_\_\_\_\_%  
(List HUB Subcontractor information below).

HUB Subcontractor Name: \_\_\_\_\_ HUB Status:  
Certifying Agency (Check all applicable):  Texas Building & Procurement Commission  Other  
Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip:  
Contact Person: \_\_\_\_\_ Title: \_\_\_\_\_ Phone No.: ( )  
Subcontract Amount: \$ \_\_\_\_\_ Description of Work to be Performed:

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HUB Subcontractor Name: \_\_\_\_\_ HUB Status:  
Certifying Agency (Check all applicable):  Texas Building & Procurement Commission  Other  
Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip:  
Contact Person: \_\_\_\_\_ Title: \_\_\_\_\_ Phone No.: ( )  
Subcontract Amount: \$ \_\_\_\_\_ Description of Work to be Performed:

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HUB Subcontractor Name: \_\_\_\_\_ HUB Status:  
Certifying Agency (Check all applicable):  Texas Building & Procurement Commission  Other  
Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip:  
Contact Person: \_\_\_\_\_ Title: \_\_\_\_\_ Phone No.: ( )  
Subcontract Amount: \$ \_\_\_\_\_ Description of Work to be Performed:

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# Request for Taxpayer Identification Number and Certification

**Give Form to the  
requester. Do not  
send to the IRS.**

▶ Go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9) for instructions and the latest information.

Print or type. See Specific Instructions on page 3.	<p><b>1</b> Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.</p> <hr/> <p><b>2</b> Business name/disregarded entity name, if different from above</p> <hr/> <p><b>3</b> Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only <b>one</b> of the following seven boxes.</p> <p><input type="checkbox"/> Individual/sole proprietor or single-member LLC      <input type="checkbox"/> C Corporation      <input type="checkbox"/> S Corporation      <input type="checkbox"/> Partnership      <input type="checkbox"/> Trust/estate</p> <p><input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ▶ _____</p> <p><b>Note:</b> Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is <b>not</b> disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.</p> <p><input type="checkbox"/> Other (see instructions) ▶ _____</p>	<p><b>4</b> Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):</p> <p>Exempt payee code (if any) _____</p> <p>Exemption from FATCA reporting code (if any) _____</p> <p><small>(Applies to accounts maintained outside the U.S.)</small></p>
	<p><b>5</b> Address (number, street, and apt. or suite no.) See instructions.</p> <hr/> <p><b>6</b> City, state, and ZIP code</p> <hr/> <p><b>7</b> List account number(s) here (optional)</p>	<p>Requester's name and address (optional)</p> <hr/>

## Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

**Note:** If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

<b>Social security number</b>											
				-			-				
<b>or</b>											
<b>Employer identification number</b>											
				-							

## Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

<b>Sign Here</b>	Signature of U.S. person ▶	Date ▶
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## General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

**Future developments.** For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9).

### Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

*If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.*

By signing the filled-out form, you:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting*, later, for further information.

**Note:** If you are a U.S. person and a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

**Definition of a U.S. person.** For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien;
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States;
- An estate (other than a foreign estate); or
- A domestic trust (as defined in Regulations section 301.7701-7).

**Special rules for partnerships.** Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax under section 1446 on any foreign partners' share of effectively connected taxable income from such business. Further, in certain cases where a Form W-9 has not been received, the rules under section 1446 require a partnership to presume that a partner is a foreign person, and pay the section 1446 withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid section 1446 withholding on your share of partnership income.

In the cases below, the following person must give Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States.

- In the case of a disregarded entity with a U.S. owner, the U.S. owner of the disregarded entity and not the entity;
- In the case of a grantor trust with a U.S. grantor or other U.S. owner, generally, the U.S. grantor or other U.S. owner of the grantor trust and not the trust; and
- In the case of a U.S. trust (other than a grantor trust), the U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

**Foreign person.** If you are a foreign person or the U.S. branch of a foreign bank that has elected to be treated as a U.S. person, do not use Form W-9. Instead, use the appropriate Form W-8 or Form 8233 (see Pub. 515, *Withholding of Tax on Nonresident Aliens and Foreign Entities*).

**Nonresident alien who becomes a resident alien.** Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items.

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

**Example.** Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity, give the requester the appropriate completed Form W-8 or Form 8233.

## Backup Withholding

**What is backup withholding?** Persons making certain payments to you must under certain conditions withhold and pay to the IRS 24% of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, payments made in settlement of payment card and third party network transactions, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

**Payments you receive will be subject to backup withholding if:**

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the instructions for Part II for details),
3. The IRS tells the requester that you furnished an incorrect TIN,
4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or
5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See *Exempt payee code*, later, and the separate Instructions for the Requester of Form W-9 for more information.

Also see *Special rules for partnerships*, earlier.

## What is FATCA Reporting?

The Foreign Account Tax Compliance Act (FATCA) requires a participating foreign financial institution to report all United States account holders that are specified United States persons. Certain payees are exempt from FATCA reporting. See *Exemption from FATCA reporting code*, later, and the Instructions for the Requester of Form W-9 for more information.

## Updating Your Information

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payments in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you no longer are tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the account; for example, if the grantor of a grantor trust dies.

## Penalties

**Failure to furnish TIN.** If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

**Civil penalty for false information with respect to withholding.** If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

**Criminal penalty for falsifying information.** Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

**Misuse of TINs.** If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

## Specific Instructions

### Line 1

You must enter one of the following on this line; **do not** leave this line blank. The name should match the name on your tax return.

If this Form W-9 is for a joint account (other than an account maintained by a foreign financial institution (FFI)), list first, and then circle, the name of the person or entity whose number you entered in Part I of Form W-9. If you are providing Form W-9 to an FFI to document a joint account, each holder of the account that is a U.S. person must provide a Form W-9.

a. **Individual.** Generally, enter the name shown on your tax return. If you have changed your last name without informing the Social Security Administration (SSA) of the name change, enter your first name, the last name as shown on your social security card, and your new last name.

**Note: ITIN applicant:** Enter your individual name as it was entered on your Form W-7 application, line 1a. This should also be the same as the name you entered on the Form 1040/1040A/1040EZ you filed with your application.

b. **Sole proprietor or single-member LLC.** Enter your individual name as shown on your 1040/1040A/1040EZ on line 1. You may enter your business, trade, or “doing business as” (DBA) name on line 2.

c. **Partnership, LLC that is not a single-member LLC, C corporation, or S corporation.** Enter the entity’s name as shown on the entity’s tax return on line 1 and any business, trade, or DBA name on line 2.

d. **Other entities.** Enter your name as shown on required U.S. federal tax documents on line 1. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on line 2.

e. **Disregarded entity.** For U.S. federal tax purposes, an entity that is disregarded as an entity separate from its owner is treated as a “disregarded entity.” See Regulations section 301.7701-2(c)(2)(iii). Enter the owner’s name on line 1. The name of the entity entered on line 1 should never be a disregarded entity. The name on line 1 should be the name shown on the income tax return on which the income should be reported. For example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a single owner that is a U.S. person, the U.S. owner’s name is required to be provided on line 1. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity’s name on line 2, “Business name/disregarded entity name.” If the owner of the disregarded entity is a foreign person, the owner must complete an appropriate Form W-8 instead of a Form W-9. This is the case even if the foreign person has a U.S. TIN.

### Line 2

If you have a business name, trade name, DBA name, or disregarded entity name, you may enter it on line 2.

### Line 3

Check the appropriate box on line 3 for the U.S. federal tax classification of the person whose name is entered on line 1. Check only one box on line 3.

IF the entity/person on line 1 is a(n) . . .	THEN check the box for . . .
• Corporation	Corporation
• Individual • Sole proprietorship, or • Single-member limited liability company (LLC) owned by an individual and disregarded for U.S. federal tax purposes.	Individual/sole proprietor or single-member LLC
• LLC treated as a partnership for U.S. federal tax purposes, • LLC that has filed Form 8832 or 2553 to be taxed as a corporation, or • LLC that is disregarded as an entity separate from its owner but the owner is another LLC that is not disregarded for U.S. federal tax purposes.	Limited liability company and enter the appropriate tax classification. (P= Partnership; C= C corporation; or S= S corporation)
• Partnership	Partnership
• Trust/estate	Trust/estate

### Line 4, Exemptions

If you are exempt from backup withholding and/or FATCA reporting, enter in the appropriate space on line 4 any code(s) that may apply to you.

#### Exempt payee code.

- Generally, individuals (including sole proprietors) are not exempt from backup withholding.
- Except as provided below, corporations are exempt from backup withholding for certain payments, including interest and dividends.
- Corporations are not exempt from backup withholding for payments made in settlement of payment card or third party network transactions.
- Corporations are not exempt from backup withholding with respect to attorneys’ fees or gross proceeds paid to attorneys, and corporations that provide medical or health care services are not exempt with respect to payments reportable on Form 1099-MISC.

The following codes identify payees that are exempt from backup withholding. Enter the appropriate code in the space in line 4.

- 1—An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2)
- 2—The United States or any of its agencies or instrumentalities
- 3—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities
- 4—A foreign government or any of its political subdivisions, agencies, or instrumentalities
- 5—A corporation
- 6—A dealer in securities or commodities required to register in the United States, the District of Columbia, or a U.S. commonwealth or possession
- 7—A futures commission merchant registered with the Commodity Futures Trading Commission
- 8—A real estate investment trust
- 9—An entity registered at all times during the tax year under the Investment Company Act of 1940
- 10—A common trust fund operated by a bank under section 584(a)
- 11—A financial institution
- 12—A middleman known in the investment community as a nominee or custodian
- 13—A trust exempt from tax under section 664 or described in section 4947

The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 13.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt payees except for 7
Broker transactions	Exempt payees 1 through 4 and 6 through 11 and all C corporations. S corporations must not enter an exempt payee code because they are exempt only for sales of noncovered securities acquired prior to 2012.
Barter exchange transactions and patronage dividends	Exempt payees 1 through 4
Payments over \$600 required to be reported and direct sales over \$5,000 <sup>1</sup>	Generally, exempt payees 1 through 5 <sup>2</sup>
Payments made in settlement of payment card or third party network transactions	Exempt payees 1 through 4

<sup>1</sup> See Form 1099-MISC, Miscellaneous Income, and its instructions.

<sup>2</sup> However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, gross proceeds paid to an attorney reportable under section 6045(f), and payments for services paid by a federal executive agency.

**Exemption from FATCA reporting code.** The following codes identify payees that are exempt from reporting under FATCA. These codes apply to persons submitting this form for accounts maintained outside of the United States by certain foreign financial institutions. Therefore, if you are only submitting this form for an account you hold in the United States, you may leave this field blank. Consult with the person requesting this form if you are uncertain if the financial institution is subject to these requirements. A requester may indicate that a code is not required by providing you with a Form W-9 with "Not Applicable" (or any similar indication) written or printed on the line for a FATCA exemption code.

A—An organization exempt from tax under section 501(a) or any individual retirement plan as defined in section 7701(a)(37)

B—The United States or any of its agencies or instrumentalities

C—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities

D—A corporation the stock of which is regularly traded on one or more established securities markets, as described in Regulations section 1.1472-1(c)(1)(i)

E—A corporation that is a member of the same expanded affiliated group as a corporation described in Regulations section 1.1472-1(c)(1)(i)

F—A dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any state

G—A real estate investment trust

H—A regulated investment company as defined in section 851 or an entity registered at all times during the tax year under the Investment Company Act of 1940

I—A common trust fund as defined in section 584(a)

J—A bank as defined in section 581

K—A broker

L—A trust exempt from tax under section 664 or described in section 4947(a)(1)

M—A tax exempt trust under a section 403(b) plan or section 457(g) plan

**Note:** You may wish to consult with the financial institution requesting this form to determine whether the FATCA code and/or exempt payee code should be completed.

## Line 5

Enter your address (number, street, and apartment or suite number). This is where the requester of this Form W-9 will mail your information returns. If this address differs from the one the requester already has on file, write NEW at the top. If a new address is provided, there is still a chance the old address will be used until the payor changes your address in their records.

## Line 6

Enter your city, state, and ZIP code.

## Part I. Taxpayer Identification Number (TIN)

**Enter your TIN in the appropriate box.** If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN.

If you are a single-member LLC that is disregarded as an entity separate from its owner, enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

**Note:** See *What Name and Number To Give the Requester*, later, for further clarification of name and TIN combinations.

**How to get a TIN.** If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local SSA office or get this form online at [www.SSA.gov](http://www.SSA.gov). You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at [www.irs.gov/Businesses](http://www.irs.gov/Businesses) and clicking on Employer Identification Number (EIN) under Starting a Business. Go to [www.irs.gov/Forms](http://www.irs.gov/Forms) to view, download, or print Form W-7 and/or Form SS-4. Or, you can go to [www.irs.gov/OrderForms](http://www.irs.gov/OrderForms) to place an order and have Form W-7 and/or SS-4 mailed to you within 10 business days.

If you are asked to complete Form W-9 but do not have a TIN, apply for a TIN and write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

**Note:** Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

**Caution:** A disregarded U.S. entity that has a foreign owner must use the appropriate Form W-8.

## Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if item 1, 4, or 5 below indicates otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). In the case of a disregarded entity, the person identified on line 1 must sign. Exempt payees, see *Exempt payee code*, earlier.

**Signature requirements.** Complete the certification as indicated in items 1 through 5 below.

**1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983.**

You must give your correct TIN, but you do not have to sign the certification.

**2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983.**

You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

**3. Real estate transactions.** You must sign the certification. You may cross out item 2 of the certification.

**4. Other payments.** You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments made in settlement of payment card and third party network transactions, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

**5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), ABLE accounts (under section 529A), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions.** You must give your correct TIN, but you do not have to sign the certification.

**What Name and Number To Give the Requester**

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account) other than an account maintained by an FFI	The actual owner of the account or, if combined funds, the first individual on the account <sup>1</sup>
3. Two or more U.S. persons (joint account maintained by an FFI)	Each holder of the account
4. Custodial account of a minor (Uniform Gift to Minors Act)	The minor <sup>2</sup>
5. a. The usual revocable savings trust (grantor is also trustee)	The grantor-trustee <sup>1</sup>
b. So-called trust account that is not a legal or valid trust under state law	The actual owner <sup>1</sup>
6. Sole proprietorship or disregarded entity owned by an individual	The owner <sup>3</sup>
7. Grantor trust filing under Optional Form 1099 Filing Method 1 (see Regulations section 1.671-4(b)(2)(i)(A))	The grantor*
For this type of account:	Give name and EIN of:
8. Disregarded entity not owned by an individual	The owner
9. A valid trust, estate, or pension trust	Legal entity <sup>4</sup>
10. Corporation or LLC electing corporate status on Form 8832 or Form 2553	The corporation
11. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
12. Partnership or multi-member LLC	The partnership
13. A broker or registered nominee	The broker or nominee

For this type of account:	Give name and EIN of:
14. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity
15. Grantor trust filing under the Form 1041 Filing Method or the Optional Form 1099 Filing Method 2 (see Regulations section 1.671-4(b)(2)(i)(B))	The trust

<sup>1</sup> List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

<sup>2</sup> Circle the minor's name and furnish the minor's SSN.

<sup>3</sup> You must show your individual name and you may also enter your business or DBA name on the "Business name/disregarded entity" name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

<sup>4</sup> List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships*, earlier.

\*Note: The grantor also must provide a Form W-9 to trustee of trust.

Note: If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

**Secure Your Tax Records From Identity Theft**

Identity theft occurs when someone uses your personal information such as your name, SSN, or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

If your tax records are affected by identity theft and you receive a notice from the IRS, respond right away to the name and phone number printed on the IRS notice or letter.

If your tax records are not currently affected by identity theft but you think you are at risk due to a lost or stolen purse or wallet, questionable credit card activity or credit report, contact the IRS Identity Theft Hotline at 1-800-908-4490 or submit Form 14039.

For more information, see Pub. 5027, Identity Theft Information for Taxpayers.

Victims of identity theft who are experiencing economic harm or a systemic problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

**Protect yourself from suspicious emails or phishing schemes.**

Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to [phishing@irs.gov](mailto:phishing@irs.gov). You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration (TIGTA) at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at [spam@uce.gov](mailto:spam@uce.gov) or report them at [www.ftc.gov/complaint](http://www.ftc.gov/complaint). You can contact the FTC at [www.ftc.gov/idtheft](http://www.ftc.gov/idtheft) or 877-IDTHEFT (877-438-4338). If you have been the victim of identity theft, see [www.IdentityTheft.gov](http://www.IdentityTheft.gov) and Pub. 5027.

Visit [www.irs.gov/IdentityTheft](http://www.irs.gov/IdentityTheft) to learn more about identity theft and how to reduce your risk.

## Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons (including federal agencies) who are required to file information returns with the IRS to report interest, dividends, or certain other income paid to you; mortgage interest you paid; the acquisition or abandonment of secured property; the cancellation of debt; or contributions you made to an IRA, Archer MSA, or HSA. The person collecting this form uses the information on the form to file information returns with the IRS, reporting the above information. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation and to cities, states, the District of Columbia, and U.S. commonwealths and possessions for use in administering their laws. The information also may be disclosed to other countries under a treaty, to federal and state agencies to enforce civil and criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. You must provide your TIN whether or not you are required to file a tax return. Under section 3406, payers must generally withhold a percentage of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to the payer. Certain penalties may also apply for providing false or fraudulent information.

EXHIBIT "F"  
DEBARMENT

**Certification  
Regarding Debarment, Suspension and Ineligibility**

As is required by the Federal Regulations Implementing Executive Order 12549, Debarment and Suspension, 45 CFR Part 76, Government-wide Debarment and Suspension, the applicant certifies, to the best of his or her knowledge and belief, that both it and its principals:

- a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency;
- b. Have not within a three-year period preceding this bid proposal and/or application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction, violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- c. Are not presently indicted for or otherwise criminally or civilly charged by a government entity with commission of any of the offenses enumerated herein; and
- d. Have not within a three-year period preceding this bid proposal and/or application had one or more public transactions terminated for cause or default.

Signature: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Telephone Number: \_\_\_\_\_  
Date: \_\_\_\_\_

If the bidder is unable to certify to all of the statements in this Certification, such bidder should attach an explanation to this proposal.

EXHIBIT "G"  
TITLE VI  
"A" THROUGH "E"

## APPENDIX A

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, the Federal Highway Administration, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Nondiscrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Nondiscrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the Federal Highway Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the Federal Highway Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Nondiscrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
  - a. withholding payments to the contractor under the contract until the contractor complies; and/or
  - b. cancelling, terminating, or suspending contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

## APPENDIX B

### CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions of Assurance 4:

NOW, THEREFORE, the U.S. Department of Transportation as authorized by law and upon the condition that the **COUNTY OF HIDALGO** will accept title to the lands and maintain the project constructed thereon in accordance with all applicable federal statutes, the Regulations for the Administration of all Department of Transportation programs, and the policies and procedures prescribed by the Federal Highway Administration of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the **COUNTY OF HIDALGO** all the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit 1 attached hereto and made a part hereof.

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto **COUNTY OF HIDALGO** and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on the **COUNTY OF HIDALGO**, its successors and assigns.

The **COUNTY OF HIDALGO**, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]\* (2) that the **COUNTY OF HIDALGO** will use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended[, and(3) that in the event of breach of any of the above-mentioned nondiscrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this instruction].\*

(\*Reverted clause and related language to be used only when it is determined that such a clause is necessary in order to make clear the purpose of Title VI.)

## APPENDIX C

### CLAUSES FOR TRANSFER OF REAL PROPERTY ACQUIRED OR IMPROVED UNDER THE ACTIVITY, FACILITY, OR PROGRAM

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the **COUNTY OF HIDALGO** pursuant to the provisions of Assurance 7(a):

- A. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add "as a covenant running with the land"] that:
  1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permitted, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
- B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Nondiscrimination covenants, **COUNTY OF HIDALGO** will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.\*
- C. With respect to a deed, in the event of breach of any of the above Nondiscrimination covenants, the **COUNTY OF HIDALGO** will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the **COUNTY OF HIDALGO** and its assigns.\*

(\*Reverted clause and related language to be used only when it is determined that such a clause is necessary in order to make clear the purpose of Title VI.)

## APPENDIX D

### CLAUSES FOR CONSTRUCTION/USE/ACCESS TO REAL PROPERTY ACQUIRED UNDER THE ACTIVITY, FACILITY OR PROGRAM

The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by **COUNTY OF HIDALGO** pursuant to the provisions of Assurance 7(b):

- A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, "as a covenant running with the land") that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.
- B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above Nondiscrimination covenants, **COUNTY OF HIDALGO** will have the right to terminate the (license, permit, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued.\*
- C. With respect to deeds, in the event of breach of any of the above Nondiscrimination covenants, **COUNTY OF HIDALGO** will there upon revert to and vest in and become the absolute property of **COUNTY OF HIDALGO** and its assigns.\*

(\*Reverted clause and related language to be used only when it is determined that such a clause is necessary in order to make clear the purpose of Title VI.)

## APPENDIX E

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “contractor”) agrees to comply with the following nondiscrimination statutes and authorities; including but not limited to:

### **Pertinent Nondiscrimination Authorities:**

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23U.S.C. § 324et seq.), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49CFRPart 27;
- The Age Discrimination Act of 1975, as amended,(42U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49U.S.C. § 4 71, Section 4 7123),as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987,(PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189)as implemented by Department of Transportation regulations at 49C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Nondiscrimination statute (49U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U .S.C. 1681 et seq).

# EXHIBIT “H”

(if applicable)

2 C.F.R. § 200.326 & C.F.R. Part 200, Appendix  
II, Required Contract Clauses for Non-Federal  
Entity Contract Under Federal Awards

&

Required Contract Clauses for Non-Federal  
Entity Contract under Federal Awards with the  
Federal Emergency Management Agency  
(FEMA)

## **2 C.F.R. § 200.326 & 2 C.F.R. Part 200, Appendix II, Required Contract Clauses for Non-Federal Entity Contracts Under Federal Awards**

The United States Office of Management and Budget (OMB) issued in 2 C.F.R. 200: *Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards* (Uniform Guidance). Subpart D: Post Federal Award Requirements: 2 CFR §§200.317-200.326 of the Uniform Guidance contain provisions applicable to procurements made with federal grant funding.

As a non-Federal entity, the County of Hidalgo's ("County") contracts must contain the applicable contract clauses described in Appendix II to the Uniform Guidance (Contract Provisions for non-Federal Entity Contracts Under Federal Awards), which are set forth below. 2 C.F.R. §200.326. If applicable, the following clauses shall supersede any existing, similar clauses stated within the bid document, contract, and/or Terms and Conditions. *The term "Contractor" used herein refers to the proposer, bidder or other entity/individual responding to the applicable procurement packet.*

***If applicable, the regulations in 2 CFR, Part 200 and Appendix II to the Uniform Guidance, as it may be amended from time to time, and the contract clauses below, are incorporated by reference as part of this procurement packet and any resulting agreement.***

To procure goods and services using funds under a federal grant or contract, specific federal laws, regulations, and requirements may apply in addition to those under state law. The following provisions are required and apply when federal funds are expended by the County of Hidalgo for any contract resulting from this procurement process.

### 1. **Remedies.**

- a. **Applicability.** This requirement applies to all Federal grant and cooperative agreement programs.
- b. **Standard.** Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. See 2 C.F.R. Part 200, Appendix II, ¶ A.
- c. **Statement.** Pursuant to Federal Rule (A) above, when federal funds are expended by the County, the County reserves all rights and privileges under the applicable laws and regulations with respect to this procurement in the event of breach of contract by either party. Contractor shall comply with all applicable Federal, State of Texas, and local laws, rules, and regulations and shall obtain all applicable licenses and permits for the conduct of its business and the performance of the services, and any provision of equipment and material ("Applicable Law"). All transactions related to any of the Contract Documents shall be governed by the laws of the State of Texas, and trial of any action brought in connection with the bid or the Contract Documents shall be held exclusively in a state court in the County of Hidalgo, Texas.

## 2. Termination for Cause and Convenience.

- a. Applicability. This requirement applies to all Federal grant and cooperative agreement programs.
- b. Standard. All contracts in excess of \$10,000 shall address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement as follows. See 2 C.F.R. Part 200, Appendix II, ¶ B.
- c. Statement. Termination. County may terminate this Agreement for any reason upon ten (10) days written notice to the other party. County may terminate this Agreement immediately upon written notice if Contractor breaches this Agreement. In the event of any termination, Contractor shall promptly deliver to the County any and all Work Materials prepared for the County prior to the effective date of such termination, all of which shall become County's sole property. After receipt of the Work Materials, County will pay Contractor for the services which the County determines were satisfactorily performed as of the effective date of the termination.

*Excuses for Non-Performance.* Either party shall be absolved from its obligations under this contract when and to the extent that performance is delayed or prevented (and in the County of Hidalgo's case when and to the extent that its need for the articles, materials or work to be supplied hereunder is reduced or eliminated) by reason of acts of God, fire explosion, war riots, strikes, labor disputes, or governmental laws, orders or regulations.

*Default.* If Contractor or Subcontractor shall breach any provision hereof or shall become insolvent, enter voluntary or involuntary bankruptcy or receivership proceedings or make an assignment to the benefit of creditors, County of Hidalgo shall have the right (without limiting any other rights or remedies which it may have hereunder or by operation of law) to terminate this contract by written notice to Contractor whereupon County shall be relieved of all further obligation hereunder except the obligation to pay the reasonable value of Contractor's prior performance (at not exceeding the contract rate), and Contractor shall be liable to County for all costs incurred by County in completing or procuring the completion of performance in excess of the contract price herein specified. The County's right to require strict performance of any obligation hereunder shall not be affected by any previous waiver, forbearance of course of dealing. Time is of the essence thereof.

## 3. Equal Employment Opportunity.

- a. Applicability: This requirement applies to all Federal grant and cooperative agreement programs.
- b. Standard. Except as otherwise provided under 41 C.F.R. Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 C.F.R. § 60-1.3 must include the equal opportunity clause provided under 41 C.F.R. § 60- 1.4(b), in accordance with Executive Order 11246, *Equal Employment Opportunity* (30 Fed. Reg. 12319, 12935, 3 C.F.R. Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, *Amending Executive Order 11246 Relating to Equal Employment Opportunity*, and implementing regulations at 41 C.F.R. Part 60 (Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor). See 2 C.F.R. Part 200, Appendix II, ¶ C.

c. Key Definitions:

- (1) *Federally Assisted Construction Contract.* The regulation at 41 C.F.R. § 60-1.3 defines a “federally assisted construction contract” as any agreement or modification thereof between any applicant and a person for construction work which is paid for in whole or in part with funds obtained from the Government or borrowed on the credit of the Government pursuant to any Federal program involving a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, or any application or modification thereof approved by the Government for a grant, contract, loan, insurance, or guarantee under which the applicant itself participates in the construction work.
- (2) *Construction Work.* The regulation at 41 C.F.R. § 60-1.3 defines “construction work” as the construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other onsite functions incidental to the actual construction

- d. Statement: Contractor will comply with the Nondiscrimination Civil Rights Act of 1964, as amended and all Federal regulations relative to nondiscrimination in Federally assisted programs. The regulation at 41 C.F.R. Part 60-1.4(b) requires the insertion of the following contract clause:

“During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.

(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the

administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions as may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may request the United States to enter into such litigation to protect the interests of the United States.”

4. **Davis Bacon Act and Copeland Anti-Kickback Act.**

- a. **Applicability of Davis-Bacon Act.** The Davis-Bacon Act only applies to the emergency Management Preparedness Grant Program, Homeland Security Grant Program, Nonprofit Security Grant Program, Tribal Homeland Security Grant Program, Port Security Grant Program, and Transit Security Grant Program. **It does not apply to other Federal grant and cooperative agreement programs, including the Public Assistance Program.**
- b. **Standard.** All prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. §§ 3141-3144 and 3146-3148) as supplemented by Department of Labor regulations at 29 C.F.R. Part 5 (Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction)). **See 2 C.F.R. Part 200, Appendix II, ¶ D.**

In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week.

The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding City.

In contracts subject to the Davis-Bacon Act, the contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. § 3145), as supplemented by

Department of Labor regulations at 29 C.F.R. Part 3 (Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States). The Copeland Anti-Kickback Act provides that each contractor or sub recipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to FEMA or applicable Federal entity.

- c. Statement. The regulation at 29 C.F.R. § 5.5(a) does provide the required contract clause that applies to compliance with both the Davis-Bacon and Copeland Acts. However, as discussed in the previous subsection, the Davis-Bacon Act does not apply to Public Assistance recipients and subrecipients. In situations where the Davis-Bacon Act does not apply, neither does the Copeland “Anti-Kickback Act.” However, for purposes of grant programs where both clauses do apply, FEMA or applicable Federal entity requires the following contract clause:

“Compliance with the Copeland “Anti-Kickback” Act.

(1) *Contractor*. The contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.

(2) *Subcontracts*. The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as Federal requirements may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.

(3) *Breach*. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.”

5. **Contract Work Hours and Safety Standards Act.**

- a. Applicability: This requirement applies to all Federal grant and cooperative agreement programs.
- b. Standard. Where applicable (see 40 U.S.C. § 3701), all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations at 29 C.F.R. Part 5. See 2 C.F.R. Part 200, Appendix II, ¶ E.

Under 40 U.S.C. § 3702, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week.

The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of

supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

The regulation at 29 C.F.R. § 5.5(b) provides the required contract clause concerning compliance with the Contract Work Hours and Safety Standards Act:

c. Statement.

“Compliance with the Contract Work Hours and Safety Standards Act.

(1) *Overtime requirements.* No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) *Violation; liability for unpaid wages; liquidated damages.* In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

(3) *Withholding for unpaid wages and liquidated damages.* The County of Hidalgo shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

(4) *Subcontracts.* The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.”

6. Rights to Inventions Made Under a Contract or Agreement.

- a. Applicability: Stafford Act Disaster Grants. This requirement **does not apply to the Public Assistance,** Hazard Mitigation Grant Program, Fire Management Assistance Grant Program, Crisis Counseling Assistance and Training Grant Program, Disaster Case Management Grant

Program, and Federal Assistance to Individuals and Households – Other Needs Assistance Grant Program, as FEMA or Federal awards under these programs do not meet the definition of “funding agreement.”

- b. Standard. If the FEMA or Federal award meets the definition of “funding agreement” under 37 C.F.R. § 401.2(a) and the non-Federal entity wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the non-Federal entity must comply with the requirements of 37 C.F.R. Part 401 (Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements), and any implementing regulations issued by FEMA or applicable awarding agency. See 2 C.F.R. Part 200, Appendix II, ¶ F.
- c. Key Definition: The regulation at 37 C.F.R. § 401.2(a) currently defines “funding agreement” as any contract, grant, or cooperative agreement entered into between any Federal agency, other than the Tennessee Valley Authority, and any contractor for the performance of experimental, developmental, or research work funded in whole or in part by the Federal government. This term also includes any assignment, substitution of parties, or subcontract of any type entered into for the performance of experimental, developmental, or research work under a funding agreement as defined in the first sentence of this paragraph.

7. **Clean Air Act and the Federal Water Pollution Control Act.**

- a. Applicability and Standard: Contracts of amounts in excess of \$150,000 must contain a provision that requires the contractor to agree to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. §§ 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. §§ 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency. See 2 C.F.R. Part 200, Appendix II, ¶ G.
- b. Statement: Included in contracts as provided in section “7a” above.
  - (1) The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq. and the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
  - (2) The contractor agrees to report each violation to the Federal awarding agency (e.g. Federal Emergency Management Agency-FEMA) and the Regional Office of the Environmental Protection Agency. Contractor understands and agrees that each violation reported to the County of Hidalgo will, in turn, be reported as required to assure notification to the Federal awarding agency and the appropriate Environmental Protection Agency Regional Office.
  - (3) The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by the applicable Federal awarding agency (e.g. FEMA).

8. **Debarment and Suspension.**

- a. Applicability: This requirement applies to all Federal grant and cooperative agreement programs.

- b. Standard. Non-Federal entities and contractors are subject to the debarment and suspension regulations implementing Executive Order 12549, *Debarment and Suspension* (1986) and Executive Order 12689, *Debarment and Suspension* (1989) at 2 C.F.R. Part 180 and the Department of Homeland Security's regulations at 2 C.F.R. Part 3000 (Nonprocurement Debarment and Suspension).

These regulations restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs and activities. See 2 C.F.R. Part 200, Appendix II, ¶ H; and Chapter IV, ¶ 6.d and Appendix C, ¶ 2. A contract award must not be made to parties listed in the SAM Exclusions. SAM Exclusions is the list maintained by the General Services Administration that contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. SAM exclusions can be accessed at [www.sam.gov](http://www.sam.gov). See 2 C.F.R. § 180.530; Chapter IV, ¶ 6.d and Appendix C, ¶ 2.

In general, an "excluded" party cannot receive a Federal grant award or a contract within the meaning of a "covered transaction," to include subawards and subcontracts. This includes parties that receive Federal funding indirectly, such as contractors to recipients and subrecipients. The key to the exclusion is whether there is a "covered transaction," which is any nonprocurement transaction (unless excepted) at either a "primary" or "secondary" tier. Although "covered transactions" do not include contracts awarded by the Federal Government for purposes of the nonprocurement common rule and DHS's implementing regulations, it does include some contracts awarded by recipients and subrecipient.

Specifically, a covered transaction includes the following contracts for goods or services:

- (1) The contract is awarded by a recipient or subrecipient in the amount of at least \$25,000.
- (2) The contract requires the approval of FEMA or applicable Federal entity, regardless of amount.
- (3) The contract is for Federally-required audit services.
- (4) A subcontract is also a covered transaction if it is awarded by the contractor of a recipient or subrecipient and requires either the approval of FEMA or applicable Federal entity or is in excess of \$25,000.

- c. Statement. The following provides a debarment and suspension clause. It incorporates a method of verifying that contractors are not excluded or disqualified:

For maximum protection, provide a print or electronic document for every prime and subcontractor, from [www.sam.gov](http://www.sam.gov) in order to ensure that they are not debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs and activities.

This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the contractor is required to verify that none of the contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

This certification is a material representation of fact relied upon by (insert name of subrecipient). If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to (name of state City serving as recipient and name of subrecipient), the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.”

9. **Byrd Anti-Lobbying Amendment.**

- a. **Applicability:** This requirement applies to all Federal grant and cooperative agreement programs.
- b. **Standard.** Contractors that apply or bid for an award of \$100,000 or more must file the required certification. See 2 C.F.R. Part 200, Appendix II, ¶ I; 44 C.F.R. Part 18; Chapter IV, 6.c; Appendix C, ¶ 4. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any City, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. § 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award. See Chapter IV, ¶ 6.c and Appendix C, ¶ 4.
- c. **Statement.** The following statement in bold provides a Byrd Anti-Lobbying contract clause:

**(IF APPLICABLE, PLEASE FILL IN BLANKS AND SIGN)**

**“Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended)**

**Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.”**

**APPENDIX A, 44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING**

**Certification for Contracts, Grants, Loans, and Cooperative Agreements**

(To be submitted with each bid or offer exceeding \$100,000)

The undersigned Contractor, \_\_\_\_\_  
certifies, to the best of his or her knowledge, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor, \_\_\_\_\_, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 *et seq.*, apply to this certification and disclosure, if any.

\_\_\_\_\_  
Signature of Contractor's Authorized Official

\_\_\_\_\_  
Name and Title of Contractor's Authorized Official

\_\_\_\_\_  
Date"

10. **Procurement of Recovered Materials.**

- a. **Applicability:** This requirement applies to all Federal grant and cooperative agreement programs.
- b. **Standard.** A non-Federal entity that is a **state agency or agency of a political subdivision** of a state and its contractors must comply with Section 6002 of the Solid Waste Disposal Act, Pub. L. No. 89-272 (1965) (codified as amended by the Resource Conservation and Recovery Act at 42 U.S.C. § 6962). See 2 C.F.R. Part 200, Appendix II, ¶ J; 2 C.F.R. § 200.322; *PDAT Supplement*, Chapter V, ¶ 7.

The requirements of Section 6002 include procuring only items designated in guidelines of the EPA at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

- c. **Statement.** The following provides the clause that a state agency or agency of a political subdivision of a state and its contractors can include in contracts meeting the above contract thresholds:

“(1) In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA- designated items unless the product cannot be acquired—

- (i) Competitively within a timeframe providing for compliance with the contract performance schedule;
- (ii) Meeting contract performance requirements; or
- (iii) At a reasonable price.

- (3) Information about this requirement, along with the list of EPA-designate items, is available at EPA’s Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.”

**Additional Required Contract Clauses for Non-Federal Entity Contracts Under Federal Awards with the Federal Emergency Management Agency (FEMA)**

Additional FEMA or applicable Federal Requirements. In addition to the requirements above, non-Federal entity contracts under Federal award subject to financial assistance from FEMA are required to contain the following additional contract clauses. The Uniform Guidance authorizes FEMA to require additional provisions for non-Federal entity contracts. FEMA, pursuant to this authority, requires or recommends the following:

*These clauses are incorporated by reference as part of this procurement packet and any resulting agreement.*

## 11. Changes.

a. Standard. To be eligible for FEMA assistance under the non-Federal entity's Federal grant or cooperative agreement, the cost of the change, modification, change order, or constructive change must be allowable, allocable, within the scope of its grant or cooperative agreement, and reasonable for the completion of project scope. FEMA or applicable Federal entity recommends, therefore, that a non-Federal entity include a changes clause in its contract that describes how, if at all, changes can be made by either party to alter the method, price, or schedule of the work without breaching the contract. The language of the clause may differ depending on the nature of the contract and the end-item procured.

b. Statement. The following provides a contract clause regarding access to records:

“The contractor shall secure written authorization before proceeding with any additional work, whether requested by the County or required to complete the contract. The cost for any changes to the contract price, whether requested by the County or the Contractor will be approved only after submitting the contractor's true costs for the work and related equipment costs and site expenses.”

## 12. Access to Records.

a. Standard. All non-Federal entities must place into their contracts a provision that all contractors and their successors, transferees, assignees, and subcontractors acknowledge and agree to comply with applicable provisions governing Department and FEMA or applicable Federal entity access to records, accounts, documents, information, facilities, and staff. See DHS Standard Terms and Conditions, v 3.0, ¶ XXVI (2013).

b. Statement. The following provides a contract clause regarding access to records:

“Access to Records. The following access to records requirements apply to this contract:

(1) The contractor agrees to provide the City of Concord, the FEMA or applicable Federal Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.

(2) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

(3) The contractor agrees to provide the FEMA or applicable Federal Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.”

## 13. DHS Seal, Logo, and Flags.

a. Standard. All non-Federal entities must place in their contracts a provision that a contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS City

officials without specific FEMA or applicable Federal entity pre-approval. See DHS Standard Terms and Conditions, v3.0, ¶ XXV (2013).

- b. Statement. The following provides a contract clause regarding DHS Seal, Logo, and Flags:

“The contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS City officials without specific FEMA or applicable Federal entity pre-approval.”

**14. Compliance with Federal Law, Regulations, and Executive Orders.**

- a. Standard. All non-Federal entities must place into their contracts an acknowledgement that FEMA or applicable Federal financial assistance will be used to fund the contract along with the requirement that the contractor will comply with all applicable Federal law, regulations, executive orders, and FEMA or applicable Federal policies, procedures, and directives.
- b. Statement. The following provides a contract clause regarding Compliance with Federal Law, Regulations and Executive Orders:

“This is an acknowledgement that Federal financial assistance will be used to fund the contract only. The contractor will comply will all applicable Federal law, regulations, executive orders, FEMA or applicable Federal policies, procedures, and directives.”

**15. No Obligation by Federal Government.**

- a. Standard. The non-Federal entity must include a provision in its contract that states that the Federal Government is not a party to the contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.
- b. Statement. The following provides a contract clause regarding no obligation by the Federal Government:

“The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.”

**16. Program Fraud and False or Fraudulent Statements or Related Acts.**

- a. Standard. The non-Federal entity must include a provision in its contract that the contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to its actions pertaining to the contract.
- b. Statement. The following provides a contract clause regarding Fraud and False or Fraudulent Related Acts:

“The contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor’s actions pertaining to this contract.”

**Contractor agrees to comply with all federal, state and local laws, rules, regulations and ordinances, as applicable. It is further acknowledged that the Contractor read and understands all provisions, laws, acts, regulations, etc. as specifically noted above and certifies compliance with the same.**

Vendor's Name/Company Name: \_\_\_\_\_

Printed Name and Title of Authorized Representative: \_\_\_\_\_

Signature of Authorized Representative: \_\_\_\_\_

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

EXHIBIT "I"  
FHWA 1273

**REQUIRED CONTRACT PROVISIONS  
FEDERAL-AID CONSTRUCTION CONTRACTS**

- I. General
- II. Nondiscrimination
- III. Nonsegregated Facilities
- IV. Davis-Bacon and Related Act Provisions
- V. Contract Work Hours and Safety Standards Act Provisions
- VI. Subletting or Assigning the Contract
- VII. Safety: Accident Prevention
- VIII. False Statements Concerning Highway Projects
- IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
- X. Compliance with Governmentwide Suspension and Debarment Requirements
- XI. Certification Regarding Use of Contract Funds for Lobbying

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors.

**ATTACHMENTS**

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

**II. NONDISCRIMINATION**

The provisions of this section related to 23 CFR Part 230 are applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

**I. GENERAL**

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under Title 23 (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services).

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR 60, 29 CFR 1625-1627, Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding \$10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services). The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR 60, and 29 CFR 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), and Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

Contracting agencies may reference Form FHWA-1273 in bid proposal or request for proposal documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract).

The following provision is adopted from 23 CFR 230, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

**1. Equal Employment Opportunity:** Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under

this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract.

b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

**2. EEO Officer:** The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

**3. Dissemination of Policy:** All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

**4. Recruitment:** When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

**5. Personnel Actions:** Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

**6. Training and Promotion:**

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are

applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

**7. Unions:** If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

**8. Reasonable Accommodation for Applicants / Employees with Disabilities:** The contractor must be familiar

with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

**9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment:** The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors and suppliers and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

#### **10. Assurance Required by 49 CFR 26.13(b):**

a. The requirements of 49 CFR Part 26 and the State DOT's U.S. DOT-approved DBE program are incorporated by reference.

b. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the contracting agency deems appropriate.

**11. Records and Reports:** The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women;

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on Form FHWA-1391. The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor

will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

### III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more.

The contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location, under the contractor's control, where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

### IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size). The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. Contracting agencies may elect to apply these requirements to other projects.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

#### 1. Minimum wages

a. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions

of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b.(1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is utilized in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(3) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. The Wage and Hour Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or

will notify the contracting officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

c. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

d. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program. Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

## 2. Withholding

The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract, or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

## 3. Payrolls and basic records

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-

Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

b.(1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency..

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(i) That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(2) of this section.

(4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the FHWA may, after written notice to the contractor, the contracting agency or the State DOT, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

#### 4. Apprentices and trainees

a. Apprentices (programs of the USDOL).

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly

rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

b. Trainees (programs of the USDOL).

Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration.

The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

d. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

**5. Compliance with Copeland Act requirements.** The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

**6. Subcontracts.** The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

**7. Contract termination; debarment.** A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

**8. Compliance with Davis-Bacon and Related Act requirements.** All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

**9. Disputes concerning labor standards.** Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

**10. Certification of eligibility.**

a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

**V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT**

The following clauses apply to any Federal-aid construction contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

**1. Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

**2. Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in paragraph (1.) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.

**3. Withholding for unpaid wages and liquidated damages.** The FHWA or the contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2.) of this section.

**4. Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1.) through (4.) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1.) through (4.) of this section.

## VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term "perform work with its own organization" refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions:

- (1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
- (2) the prime contractor remains responsible for the quality of the work of the leased employees;
- (3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and
- (4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract.

2. The contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is

evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

5. The 30% self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements.

## VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C.3704).

## VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

#### **IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT**

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

By submission of this bid/proposal or the execution of this contract, or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.

2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

#### **X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION**

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200.

##### **1. Instructions for Certification – First Tier Participants:**

a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this

covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

\*\*\*\*\*

## **2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:**

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

### **2. Instructions for Certification - Lower Tier Participants:**

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200)

a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which

this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the

department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

\* \* \* \* \*

**Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:**

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

\* \* \* \* \*

**XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING**

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000 (49 CFR 20).

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

**ATTACHMENT A - EMPLOYMENT AND MATERIALS  
PREFERENCE FOR APPALACHIAN DEVELOPMENT  
HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS  
ROAD CONTRACTS**

This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

**EXHIBIT "J"**  
**PROPOSER'S AFFIDAVIT**

# Exhibit "J"

## PROPOSER'S AFFIDAVIT

<b>PROPOSER'S AFFIDAVIT OF NON-COLLUSION NON-CONFLICT OF INTEREST, AND ANTI-LOBBYING</b>
--

STATE OF TEXAS  
COUNTY OF HIDALGO

Affiant, \_\_\_\_\_, being first duly sworn, deposes that:

- (1) Affiant does hereby state neither the proposer nor any of the proposer's officers, partners, owners, agents, representatives, employees, or parties in interest, has in any way colluded, conspired, agreed, directly or indirectly with any person, firm, corporation, or another proposer, or potential proposer, to provide any money or other valuable consideration for assistance in procuring or attempting to procure a contract or fix the prices in the attached proposed or the proposal of any other proposer, and further states that no such money or another reward will be hereinafter paid.
- (2) Affiant further states they have neither recommended nor suggested to Hidalgo County or any of its officials or employees, any of the terms or provisions set forth in their Request for Proposal and subsequent agreement, except at a meeting open to all interested proposers, of which proper notice was given.
- (3) Affiant, further states their officers, employees, or agents have not, and will not attempt to lobby, directly or indirectly, the Hidalgo County Commissioner's Court between proposal submission date and award by the Hidalgo County Commissioner's Court.
- (4) Affiant further states no officer, or stockholder of the proposer is a member of the staff, or related to any employee of Hidalgo County except as noted herein below:

---

Signature/Title: \_\_\_\_\_

---

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_

Notary Public

My commission expires: \_\_\_\_\_, 20\_\_



in violation of any terms or conditions of said contract.

3. **Term.** This Contract shall be for a period of **one (1) year(s)**, commencing on **Month 00, 2020** and expiring on **Month 00, 20\_\_**, and may be extended at the sole discretion of the County for an additional **Two (2) one (1) year** term(s) under the same rates, terms and conditions unless this Contract is terminated pursuant to the provisions herein, whichever occurs first. 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 under the same rates, terms and conditions.

4. **Licenses.** As a condition of this Contract, Company 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. If such license or permit is suspended or revoked, this Agreement shall automatically be terminated and Company shall immediately notify the County.

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

6. 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 Company 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.

7. **Consideration.** As consideration for rendering the Service provided for in this Contract, the County agrees to pay Company the amounts specified in Exhibit "B" attached hereto payable against written invoice submitted by Company in accordance with the Texas Prompt Payment Act, Tex. Govt. Code Ch. 2251.

8. **Insurance:** Consistent with its status as an independent contractor and at its sole expense, Company agrees that throughout the duration of the work under this contract and any extension hereof, it shall provide and maintain any and all insurances and abide by any requirements which are specified in the Procurement Packet/Specifications and/or which may be necessary in providing Services or are otherwise required by law. Insurance policies shall cover, but are not limited to, Bidder's activities and all persons, vehicles, equipment and property connected with providing Services, to include theft or loss. The amount of insurance required shall be in accordance with amounts specified by the County or as prescribed by law, but in no event shall any amount be less than the minimum amounts prescribed by law, including, but not limited to the

Texas Tort Claims Act. These requirements do not establish limits of Company's liability. Any and all applicable insurance requirements and amounts are incorporated herein by reference for all purposes. Company is responsible for ensuring all required insurance policies are valid for the duration of the contract. All insurance policies are to be issued by an insurance company authorized to do business in the State of Texas and acceptable to County. Company shall cause all subcontractors utilized by Company to also comply with these specifications. Company shall furnish to County certificate(s) of coverage, and all renewals throughout the duration of the Project, issued by the insurer that such insurance is in full force and effect. (See Exhibit "C" attached hereto and incorporated herein for all purposes). For each applicable policy, Company shall name the County as an additional insured. Company shall notify County a minimum of thirty (30) days in advance of cancellation of all or part of a policy. Company shall make any other insurance documentation available to County upon request.

9. **Indemnification.** Company shall indemnify and hold harmless County, 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 County arising out of, resulting from, or connected with the provision of the Service by Company under this Contract. Said indemnity shall cover any act or failure to act by the Company, its agents or employees.

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

11. **Independent Contractor.** 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 County has no supervision of the performance of the Services provided by Company, and that Company is an independent contractor under this Contract.

12. **Notice.** 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:           The County of Hidalgo  
                                  Attn: County Judge  
                                  100 E. Cano, 2<sup>nd</sup> Floor  
                                  Edinburg, Texas 78539

If to Company:       \_\_\_\_\_

                                  \_\_\_\_\_

                                  \_\_\_\_\_

14. **Provisions.** 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.

15. **Termination.** This Agreement may be terminated by County without cause upon thirty (30) days written notice.

16. **Successors.** 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.

17. **Governing Law.** 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.

18. **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 County under this Agreement, County may terminate this Agreement upon ninety (90) days written notice to Company. County 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 County. *Agreements for the acquisition, including lease of real or personal property under Tex. Loc. Govt. Code §271.903:* In the event that, during any term hereof, the Commissioner's Court does not appropriate sufficient funds to meet the obligations of County under this Agreement, County may terminate this Agreement upon ninety (90) days written notice to Company, County agrees, however, to use a best efforts attempt to obtain and appropriate funds for payment of the Agreement. The parties intend this provision, if applicable, to be a continuing right to terminate this at the expiration of each budget period of County in accordance with Tex. Loc. Govt. Code §271.903 (Vernon Supp. 1996).

19. **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.

20. **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.

21. **Nondiscrimination:** Company, including subcontractors, assignees and successors in interest, ensures that no person shall on the grounds of race, religion, color, national origin, sex, age, or disability, or any other protected class under law, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination or retaliation in any federally or non-federally funded program or activity when providing any services described herein under this contract/agreement. Applicable nondiscrimination statements and provisions of Title VI of the Civil Rights Act of 1964, as amended, were provided as part of the initial procurement packet and are incorporated herein and made a part of this agreement for all purposes.

22. **Additional Documents:** The parties hereto covenant and agree that they will execute each such other and further instruments and documents as are or may become necessary or convenient to effectuate and carry out the terms of this contract/agreement.

23. **Required Contract Provision for Contracts Subject to Federal Award (if applicable):** Pursuant to 2 CFR 200.326, a non-federal entity's contracts must contain the applicable provisions described in appendix II to 2 CFR 200-Contract Provisions for non-Federal Entity Contracts under Federal Awards. Additionally, County contracts under Federal award which are subject to assistance from the Federal Emergency Management Agency (FEMA) are also required to contain additional contract clauses. The applicable required contract clauses were provided as part of the initial procurement packet and are incorporated herein and made part of this agreement for all purposes.

*[SIGNATURE PAGE TO FOLLOW]*

EXECUTED and effective as of the day and year first written above.

COUNTY OF HIDALGO

\_\_\_\_\_  
Richard F. Cortez, County Judge

ATTEST:

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

Company: \_\_\_\_\_

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

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Approved By Commissioners Court On: \_\_\_\_\_

APPROVED AS TO FORM:  
Office of the Criminal District Attorney  
Ricardo Rodriguez, Jr.

By: \_\_\_\_\_  
Robert Viña, III  
Assistant District Attorney

**EXHIBIT “A”**  
**Request for Bid (RFB)**  
**Procurement Packet**

**DRAFT**

**EXHIBIT B  
BID PAGE**

**DRAFT**

# EXHIBIT "C"

## INSURANCE REQUIREMENTS

DRAFT



**HIDALGO COUNTY**

**REQUEST FOR BIDS**

**“Striping/Markings of County Roads, County Parking Lots, & Misc. County Owned Sites”**

**RFB No.: [2020-033-09-02-HAG](#)**

**RFB SUBMITTAL CHECK LIST**

**All forms listed below must be included in the RFB response.**

**Indicate with a check mark (✓) the Forms completed and included in this response:**

\_\_\_\_\_ Page 10 of Legal Notice

\_\_\_\_\_ Exhibit “B” Bid Page

\_\_\_\_\_ Exhibit “C” -Acknowledgement forms (pages 4 & 5)

\_\_\_\_\_ Exhibit “D” CIQ Form -Copy of County Clerk File Recording fee receipt. (if applicable)

\_\_\_\_\_ Exhibit “E” Vendor Bidder Applications, W-9, & HUB/DBE

\_\_\_\_\_ Exhibit “F” Certification Regarding Debarment

\_\_\_\_\_ Exhibit “H” Required Contract Clauses for Contracts Under Federal award 2 – CFR 200, Appendix II & FEMA (if applicable)

\_\_\_\_\_ Exhibit “J” Proposer’s Affidavit

\_\_\_\_\_ SAMS.gov Registration Acknowledgement [www.sam.gov](http://www.sam.gov)

\_\_\_\_\_ One (1) Original (pages one-sided, clearly marked ORIGINAL), One (1) Copy of Bid(s), and one (1) CD/USB in PDF Format (see number 2 of Legal Notice).