



Septmebr 19, 2022

Honorable Judge Richard F. Cortez
2802 S. Business Hwy 281
Hidalgo County Administration Building
(Southeast of Canton Rd & Business 281)
Edinburg, TX 78539

Re: Bond Counsel Services for Hidalgo County

Dear Judge Cortez:

This letter and the attached Standard Terms of Engagement (the "Agreement") will set out the terms under which Orrick, Herrington & Sutcliffe LLP ("Orrick") and Perez Law Firm PLLC ("Perez Law," and together with Orrick, "Co-Bond Counsel") will serve as bond counsel with respect to bonds that Hidalgo County (the "Issuer") intends to issue, subject to voter approval as necessary, and with respect to any equipment notes or similar contractual obligations, tax and/or revenue notes and for any refunding or variable rate bonds of the Issuer, whether currently outstanding or to be issued. Such bonds, notes and obligations are collectively referred to in this letter as the "Bonds." We are very pleased to have the opportunity to serve as Co-Bond Counsel for the Issuer.

The following is based on our standard form of engagement letter. We do not intend this letter to be difficult to understand or filled with "legalese." Please let us know if there is anything you do not fully understand or if there are any changes you would like us to make in order to better tailor the terms of our engagement to the needs of the Issuer. In accordance with the requirements of the Professional Services Procurement Act, Chapter 2254 Texas Government Code, Hidalgo County (County/Issuer) solicited proposals for professional bond services, to which Orrick provided a response; the County's RFP and Orrick's response are collectively referred to herein to describe the procurement process, are incorporated by reference and made part of this Agreement.

1. Scope of Services. Co-Bond Counsel shall perform the following legal services in connection with any issuance of Bonds:

- (1) Assistance with the conduct of Issuer general obligation elections and the preparation of election documents;
- (2) Analysis of the structure of the Bonds under Texas law and the eligibility to finance with tax-exempt bonds under federal tax law.
- (3) Consultation with representatives of the Issuer, the financial adviser, underwriters, underwriters' counsel, and others, with respect to the timing, terms, and legal structure of the proposed Bonds.

- (4) Preparation of documents to be adopted or entered into by the Issuer required for the authorization, sale and issuance of the Bonds (excluding the Bond Purchase Agreement to be prepared by underwriters' counsel), including preparation of the Bond Order, Paying Agent Registrar Agreement, Escrow Agreement and the other Bond Documents (the "Major Legal Documents").
- (5) Preparation of the Continuing Disclosure Agreement pursuant to United States Securities and Exchange Commission Rule 15c2-12.
- (6) Preparation of summaries of the Major Legal Documents included in the Official Statement.
- (7) Review of any investment agreement entered into at or prior to closing, and the procedures by which bids are solicited, in each case for compliance with federal tax laws related to tax-exemption of interest on the Bonds.
- (8) Attendance at such meetings or hearings of the Issuer and working group meetings or conference calls as Issuer may request.

After the closing of any series of the Bonds and upon specific request of the Issuer, providing assistance to the Issuer concerning questions and issues that may arise prior to the maturity of the Bonds.

In rendering opinions and performing legal services under this Agreement, Co-Bond Counsel shall be entitled to rely on the accuracy and completeness of information provided and certifications made by, and opinions provided by counsel to, the Issuer and other parties and consultants, without independent investigation or verification. Knowledge of attorneys and non-attorneys not working directly any Bond issue will not be imputed to Co-Bond Counsel nor shall there be any duty on the part of Co-Bond Counsel to make any inquiry of such other attorneys or non-attorneys.

Co-Bond Counsel services are limited to those specifically set forth above. Co-Bond Counsel services do not include representation of the Issuer or any other party to the transaction in any litigation or other legal or administrative proceeding, audit or investigation involving any of the Bonds or any related matter. Co-Bond Counsel services do not include any financial advice or analysis or data or mathematical verification. The fee for any services requested by the Issuer that are beyond the scope of services described in this Section 1 would be determined on an hourly rate basis, applying the rates typically charged for the same or similar services performed by attorneys and paralegals of similar experience for other clients, provided that such hourly rates shall not exceed \$300 per hour.

2. Fees. Co-Bond Counsel will be paid a fixed fee for each series of Bonds issued by the Issuer, equal to a base fee of \$15,000, plus an additional fee of .001% of the principal amount of Bonds issued subject to the following adjustments and assumptions described in this Section 2. The fixed fee would be adjusted by adding \$10,000 for additional federal tax work required in the event of the issuance of refunding Bonds and \$10,000 for work relating to the conduct of a Bond election (contingent on voter approval of such election and to be paid at the time of the issuance of the Bonds approved in such election).

3. Expenses. In addition to the fees provided above, Issuer will pay Co-Bond Counsel for costs and expenses (direct and indirect) incurred in connection with the services, including (without limitation) Texas Attorney General review fees, third-party translation services related to a bond election, filing and publication, document reproduction and delivery, long distance telephone, telecopy, word processing, computer research, secretarial overtime, closing transcripts and other similar expenses. Any filing, publication, translation or printing costs required in connection with the Bonds shall be paid directly by Issuer, but if paid by the Co-Bond Counsel on behalf of Issuer, shall be reimbursed to Co-Bond Counsel on demand. Payment in respect of such costs and expenses will be fixed at \$1,000, exclusive of the Texas Attorney General review fees, third-party translation services related to a bond election and extraordinary

expenses, provided, however, that any extraordinary expenses shall be approved by the Issuer prior to such expenses being incurred.

4. Payment. Fees and expenses shall be payable by Issuer at or after issuance of each series of Bonds. Payment of all fees and expenses hereunder shall be made from proceeds of the Bonds, or otherwise as mutually determined by the Issuer and Co-Bond Counsel and shall be entirely contingent upon issuance of each series of Bonds.

5. Termination of Agreement, Legal Services and Other Obligations. This Agreement and all legal services to be rendered under it may be terminated at any time by 30 days written notice from either party, with or without cause.

6. Nature of Engagement; Client Relationships with Other Parties. The role of bond counsel, generally, is to prepare or review the proceedings for issuance of the bonds, notes or other evidence of indebtedness and to provide a legal opinion with respect to the validity thereof and other subjects (usually including the tax status of interest thereon) addressed by the opinion. Consistent with the historical origin and unique role of bond counsel, and reliance thereon by the public finance market, Co-Bond Counsel's role as bond counsel under this Agreement is to provide opinions and related legal services that represent an objective judgment on the matters addressed rather than the partisan position of an advocate. Orrick and Perez Law will serve as Co-Bond Counsel and will divide the responsibilities of Co-Bond Counsel between the firms in a manner that is most efficient for the Issuer. Orrick and Perez Law are separate law firms providing separate legal services, are not part of a common partnership or joint venture and each firm is not legally authorized to act on behalf of or bind the other. The obligations of each firm under this Agreement are several and not joint.

Issuer acknowledges that Co-Bond Counsel regularly performs legal services for many private and public entities in connection with a wide variety of matters. For example, Co-Bond Counsel has represented, is representing or may in the future represent other public entities, underwriters, trustees, rating agencies, insurers, credit enhancement providers, lenders, contractors, suppliers, financial and other consultants/advisors, accountants, investment and swap providers/brokers, providers/brokers of derivative products and others who may have a role or interest in the Bond financing or that may be involved with or adverse to the Issuer in this or some other matter. Co-Bond Counsel agrees not to represent any such entity in connection with the any Bond financing, during the term of this Agreement, without the consent of the Issuer. Given the special, limited role of bond counsel described above, Issuer acknowledges and agrees that no conflict of interest exists or would exist, and waives any actual or potential conflict of interest that might be deemed to arise, now or in the future, from this Agreement or any such other relationship that Co-Bond Counsel may have had, have or enter into, and the Issuer specifically consents to any and all such relationships.

7. Limitation of Rights to Parties. Nothing in this Agreement or in any of the documents contemplated hereby, expressed or implied, is intended or shall be construed to give any person other than Issuer and Co-Bond Counsel any legal or equitable right or claim under or in respect of this Agreement, and this Agreement shall inure to the sole and exclusive benefit of the Issuer and Co-Bond Counsel.

8. Counterparts. This Agreement may be executed in any number of counterparts and each counterpart shall for all purposes be deemed to be an original, and all such counterparts shall together constitute but one and the same Agreement.

9. Anti-Boycott Verification. Each of Orrick and Perez Law represents and warrants that (1) it does not, and shall not for the duration of this Agreement, boycott Israel or (2) the verification required by Section 2271.002 of the Texas Government Code does not apply to this Agreement. If circumstances

relevant to this provision change during the course of this Agreement, Co-Bond Counsel shall promptly notify the Issuer.

Each of Orrick and Perez Law represents and warrants that: (1) it does not, and will not for the duration of this Agreement, boycott energy companies or (2) the verification required by Section 2274.002 of the Texas Government Code does not apply to this Agreement. If circumstances relevant to this provision change during the course of this Agreement, Co-Bond Counsel shall promptly notify the Issuer.

10. No Discrimination Against Firearms Entities. Each of Orrick and Perez Law verifies that: (1) it does not, and will not for the duration of this Agreement, have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association or (2) the verification required by Section 2274.002 of the Texas Government Code does not apply to this Agreement. If circumstances relevant to this provision change during the course of this Agreement, Co-Bond Counsel shall promptly notify the Issuer.

11. Not Prohibited Companies. Pursuant to Section 2252.152, Texas Government Code, Orrick and Perez Law are not a companies currently listed by the Texas Comptroller of Public Accounts under Sections 806.051, 807.051, or 2252.153 of the Texas Government Code.

If the foregoing is acceptable to the Issuer, please so indicate by returning the enclosed copy of this letter, signed by an authorized officer, and retain an original for your files.

ORRICK HERRINGTON & SUTCLIFFE, LLP

PEREZ LAW FIRM PLLC

By: _____

Marcus Deitz, Partner

By: _____

Name: Ricardo Perez, Partner

HIDALGO COUNTY

By: _____

Name: Hon. Richard F. Cortez., County Judge

STANDARD TERMS OF ENGAGEMENT

Except as modified in writing by the engagement letter accompanying these Standard Terms of Engagement (the "Engagement Letter") or in another agreement signed by Issuer (as defined in the Engagement Letter) and Orrick, Herrington & Sutcliffe LLP ("Orrick") and Perez Law Firm PLLC ("Perez Law," and together with Orrick, "Co-Bond Counsel") the following provisions shall apply to the relationship between Co-Bond Counsel and Issuer. Orrick and Perez Law are separate law firms providing separate legal services, are not part of a common partnership or joint venture and each firm is not legally authorized to act on behalf of or bind the other. The obligations of each firm under this Agreement are several and not joint.

1. Issuer

Co-Bond Counsel's engagement is only on behalf of Issuer. In performing the services set forth in the Engagement Letter, Co-Bond Counsel will act as special counsel to Issuer with respect to issuance of the Bonds; Co-Bond Counsel will assist Issuer's counsel in representing Issuer with respect to the Bonds in a manner consistent with Co-Bond Counsel's role set forth in the Engagement Letter. Co-Bond Counsel's representation of Issuer does not encompass any governing board member, officer or employee of Issuer; any agency, department or office part of or affiliated with Issuer; or any other person or entity affiliated with Issuer. If any of these persons or entities require the services of counsel in connection with the Bonds, Co-Bond Counsel would be pleased to discuss whether Co-Bond Counsel might be able to represent any of them, but any such representation would need its own engagement letter, and would depend on Co-Bond Counsel's review and disclosure to all concerned of any conflicts of interest that may arise in connection with any such concurrent representation, and on appropriate consents being obtained from Issuer and from those seeking such additional representation.

2. Scope of Engagement

The scope of Co-Bond Counsel's representation of Issuer is limited to the specific services identified in the Engagement Letter and such additional matters as Issuer and Co-Bond Counsel may in their mutual discretion agree to in writing from time to time (collectively, the "Matter"). In each case, Co-Bond Counsel's agreement to any expansion of the scope of its representation of Issuer will be subject, among other things, to such additional conflict checks, waivers, approvals and other arrangements as Co-Bond Counsel may in their professional judgment deem necessary or appropriate in the circumstances and may be conditioned upon such fee adjustments or retainers as Co-Bond Counsel may require. Except as otherwise expressly provided in any written engagement letter (or a written amendment of a prior engagement letter) between Co-Bond Counsel and Issuer entered into in connection with such expansion of the scope of Co-Bond Counsel's representation, the agreement reflected in these Standard Terms of Engagement and in the Engagement Letter applies to Co-Bond Counsel's current representation of Issuer and, to the fullest extent practicable, to any subsequent matters that Co-Bond Counsel agrees to undertake on Issuer's behalf. Co-Bond Counsel's services will not extend to other business or legal affairs of Issuer or to any other aspect of Issuer's activities. Co-Bond Counsel's receipt or use of confidential or other information from Issuer or others in the course of the representation described in the Engagement Letter does not mean that Co-Bond Counsel will render any advice or services other than those described in the Engagement Letter.

The parties agree that Co-Bond Counsel is not acting in a staff capacity or otherwise assuming the responsibilities for any public official currently designated in Issuer's conflict of interest code. The parties also agree that Co-Bond Counsel is not being retained to, has no duty to, and will not, advise Issuer or otherwise be involved in Issuer's decisions as to (a) whether Issuer should issue the Bonds, (b) the principal amount, interest rate or other pricing terms of the Bonds, (c) what project(s) is/are to be financed or

refinanced through the issuance of the Bonds (the "Project"), (d) whether Issuer should enter into contracts related to the possible issuance of the Bonds or (e) the financial terms to be included in the Bonds and/or any such contracts (collectively, the "Governmental Decisions"). Instead, Co-Bond Counsel is being retained to advise and to render opinions as to the validity of or other legal matters respecting the issuance or sale of the Bonds Issuer determines to issue and certain contracts Issuer determines to enter into in connection with the Bonds, as set forth in the Engagement Letter. Issuer also agrees that Co-Bond Counsel is not being retained, and has no duty, to provide financial advice of any kind to Issuer in connection with the foregoing. Issuer, through its governing board, staff and independent legal counsel, will be exercising its independent judgment regarding the Governmental Decisions. Issuer acknowledges that Co-Bond Counsel has not been involved with the preliminary discussions, evaluation, planning, drawing of plans and specifications and solicitation of bids related to the Project.

Customary Bond Counsel Services

When Co-Bond Counsel's role is Bond Counsel to Issuer, Co-Bond Counsel shall perform the following legal services to Issuer:

- (1) Analysis of eligibility of the Project under state law and for interest on the Bonds to be excluded from gross income for federal income tax purposes.
- (2) Consultation with representatives of Issuer, Issuer's counsel, and any financial advisor or underwriters, and others, with respect to the timing, terms, and legal structure of the proposed Bonds.
- (3) Preparation of the resolution of the governing board of Issuer approving the issuance and sale of the Bonds and the documents to be adopted or entered into by Issuer required for the issuance of the Bonds, including the bond resolution or the indenture of trust or trust agreement between Issuer and a trustee (or, if applicable, the supplement to an existing bond resolution, indenture or trust agreement) (the "Major Legal Documents").
- (4) If the Bonds are to be sold through a competitive sale, preparation of the official notice of sale and the notice of intention to sell.
- (5) In the case of a refunding, preparation of the refunding escrow agreement.
- (6) Preparation of summaries of the Major Legal Documents included in the official statement for the Bonds (the "Official Statement").
- (7) Participation in such meetings of Issuer and working group meetings or conference calls as Issuer may request.
- (8) Preparation of final closing papers to be executed by Issuer required to effect delivery of the Bonds (including the Tax Agreement).
- (9) Rendering of Co-Bond Counsel's customary forms of final legal opinion to Issuer on the validity of the Bonds and the tax-exempt status of interest thereon, and, if required by the underwriters of the Bonds, Co-Bond Counsel's customary forms of supplemental opinion to the underwriters on the accuracy of summaries contained in the Official Statement of the Major Legal Documents and the tax portion of said final legal opinion and certain other matters and, in the case of a refunding, Co-Bond Counsel's customary forms of defeasance opinion.
- (10) Providing, in electronic form, closing transcripts.

Limitations

Bond Counsel services are limited to those specifically set forth above. For example, Bond Counsel services do not include representation of Issuer or any other party in any litigation or other legal or administrative proceeding, audit or investigation involving the Bonds or any use or investment of the proceeds thereof, or any related matter. Additionally, Bond Counsel services do not include any responsibility for the preparation or content of any Official Statement or other disclosure document or presentation (other than preparation of a summary of the Major Legal Documents and of the portion of the opinion to be rendered by Bond Counsel concerning certain tax matters) or any rating agency or investor presentation or the preparation of any credit enhancement agreement, investment agreement or swap agreement. Bond Counsel services also do not include any responsibility for compliance with any federal or state securities laws, environmental, land use, procurement, real estate, construction, insurance or (except as required for tax exemption of the Bonds) tax laws or for title to, recording, filing or perfection or continuation of any liens or security interests in real or personal property. It is not the role or responsibility of Bond Counsel to assure that the interests of any parties other than Issuer are addressed or that any conditions to closing the transaction, other than as necessary in Bond Counsel's judgment to render the legal opinions delivered by Bond Counsel, have been satisfied or addressed. Neither Bond Counsel's role in the Bond closing nor Bond Counsel's provision of closing transcripts shall imply the completeness or adequacy of any items included in the closing transcript for any purpose other than as expressly addressed in the legal opinions delivered by Bond Counsel. Bond Counsel services are limited to legal advice and do not include any financial advice or analysis, including advice concerning whether or not to issue the Bonds, or adopt any Bond related resolutions or enter into any Bond related agreements. Bond Counsel services do not extend past the date of issuance of the Bonds and do not, for example, include services related to rebate or other post-issuance tax compliance, continuing disclosure, amendments to any of the Bond related documents, post-issuance investments, interest rate swaps or management contracts entered into after the date of issuance of the Bonds, or redemption or defeasance of the Bonds. Any involvement by Bond Counsel in any of the matters referred to in this paragraph shall not constitute a waiver of any of the foregoing limitations on Bond Counsel's responsibilities unless otherwise agreed to in writing.

Customary Disclosure Counsel Services

When Co-Bond Counsel's role is Disclosure Counsel to Issuer, Co-Bond Counsel shall perform the following legal services to Issuer:

(1) Assistance in preparing a preliminary official statement (the "Preliminary Official Statement") and a final official statement (the "Official Statement") for the Bonds. Such assistance will consist of participation in conferences with the Issuer, the underwriters of the Bonds (the "Underwriters"), their respective counsel, Issuer's financial advisor and other relevant participants, assistance in the preparation of information about the Bonds, Issuer and other material information and assistance in coordinating posting, printing or reproduction of the Preliminary Official Statement and the Official Statement, the cost of which shall be the responsibility of Issuer.

(2) Rendering, in Co-Bond Counsel's customary form, addressed only to the Underwriters, of a so-called "10b-5 letter" (subject to customary limitations and exclusions).

Unless Co-Bond Counsel is also bond counsel, Issuer will rely upon, and Co-Bond Counsel will assume the accuracy of, the opinion of bond counsel with respect to the validity of the Bonds and the Bond documents, the federal and state tax-exempt status of interest on the Bonds, exemption from registration of the Bonds under applicable securities laws, and other matters customarily covered by opinions of bond counsel and counsel to other parties, and Co-Bond Counsel will not undertake any independent consideration thereof or have any other responsibility therefor. Bond counsel will also be responsible for

preparing summaries of legal documents for inclusion in the Preliminary Official Statement and the Official Statement and giving an opinion as to the accuracy of the summaries of the legal documents and the Bonds and of Co-Bond Counsel's tax opinion contained in the Official Statement.

In performing Disclosure Counsel services, in addition to relying on the opinions described above, Co-Bond Counsel will be entitled to rely on the accuracy and completeness of information provided and certifications made by Issuer, the financial advisor, consultants, accountants, the underwriters, various counsel and other parties, without independent investigation or verification. While Co-Bond Counsel will undertake certain activities in order to provide the negative conclusion that constitutes the so-called "10b-5 letter", such activities are inherently limited in character and in scope. They cannot and will not encompass all of the activities an underwriter may be required to undertake in order to establish a due diligence or reasonable investigation defense (if available), and the securities laws do not permit an underwriter to delegate completely duties of due diligence or reasonable investigation it may have to counsel.

Limitations

Disclosure Counsel services will be limited to those specifically set forth above and, for example, will not include other services, including but not limited to matters relating to the mode or manner of dissemination of the official statement, the accuracy of any printing or posting of the official statement, registration or qualification of the Bonds under federal or state securities laws, derivative products, regulatory matters (such as compliance with FINRA or MSRB rules or other broker-dealer regulations) or independent investigation of prior compliance with continuing disclosure undertakings, and will not include preparation or review of any rating agency or investor presentation or representation in any litigation or other legal or administrative proceeding, audit or investigation involving the Official Statement, the Bonds, the Project or any related matter. Disclosure Counsel services do not include any financial advice or analysis. Disclosure Counsel services are limited to legal advice and do not extend past the date of issuance of the Bonds and do not, for example, include services related to any post-issuance amendment of or supplement to the Official Statement or to any continuing disclosure. Any involvement by Disclosure Counsel in any of the matters referred to in this paragraph shall not constitute a waiver of any of the foregoing limitations on Disclosure Counsel's responsibilities unless otherwise agreed to in writing.

3. Costs and Expenses

Unless otherwise provided in the Engagement Letter, Issuer will pay Co-Bond Counsel for costs and expenses (direct and indirect) incurred in connection with the services set forth in the Engagement Letter, including (without limitation) filing and publication, document reproduction and delivery, telecopy, word processing, computer research, secretarial overtime, closing transcript and other similar expenses. Indirect costs, such as word processing, document reproduction and transcript costs, shall be payable at the actual cost thereof.

Any filing, publication or printing costs required in connection with the Bonds shall be paid directly by the Issuer, but if paid by Co-Bond Counsel on behalf of Issuer, Issuer shall reimburse Co-Bond Counsel for such costs upon demand.

If any claim or action is brought against Orrick or Perez Law or any of its personnel which alleges negligence or wrongdoing of Issuer, or if Orrick or Perez Law or any current or former attorney or employee of Orrick or Perez Law is asked or required by a third party to testify or produce documents as a result of Orrick's representation or Perez Law's of Issuer, Issuer agrees to pay Orrick or Perez Law for any resulting costs or expenses, including Orrick's time or Perez Law's time, even if Orrick's representation or Perez

Law's of Issuer has ended. This paragraph is not intended to apply to any claim brought by or on behalf of Issuer alleging wrongdoing by Orrick or Perez Law.

4. Waiver of Conflicts of Interest

Co-Bond Counsel's agreement to represent Issuer in connection with the Matter is conditioned upon the understanding that Co-Bond Counsel is free to represent any clients (including entities that may be adverse to the Issuer) and to take positions adverse to either Issuer or an affiliate in any matters (whether involving the same substantive area(s) of law for which Issuer has retained Co-Bond Counsel or some other unrelated area(s), and whether involving business transactions, patent prosecution and patent validity and infringement opinion work, counseling, litigation or otherwise). Co-Bond Counsel agrees, however, to not represent any party other than Issuer in connection with the Bond financing prior to the date of termination determined in accordance with Paragraph 9 hereof without the consent of Issuer. In this connection, Issuer should be aware that Co-Bond Counsel regularly provides legal services for many private and public entities in connection with a wide variety of matters. For example, Co-Bond Counsel has represented, is representing or may in the future represent other public entities, underwriters, trustees, rating agencies, insurers, credit enhancement providers, lenders, borrowers, developers, contractors, suppliers, financial and other consultants/advisors, accountants, investment and swap providers/brokers, providers/brokers of derivative products and others who may have a role or interest in the bond financings or that may be involved with or adverse to Issuer. In addition, Orrick's wholly-owned subsidiary BLX Group LLC may provide financial advisory services, including arbitrage rebate compliance and other post-issuance compliance services, to other parties involved in the Bond financing and Orrick may provide legal advice to such other parties in connection with such BLX Group LLC services. Co-Bond Counsel will, of course, hold in confidence Issuer's secrets and confidences. Similarly, Issuer understands that while Co-Bond Counsel may obtain confidential information from other clients that may be of interest to Issuer, Co-Bond Counsel cannot share such information with Issuer. Issuer acknowledges that it has had the opportunity to consult with its counsel about the consequences of the waiver set forth in this paragraph. Issuer consents to these other representations, agrees that it will not seek to disqualify Co-Bond Counsel from any such present or future representations, and waives any actual or potential conflict of interest that might arise or be deemed to arise, now or in the future, from this engagement of Co-Bond Counsel in the Matter and any past, current or future representations.

5. Internal Communications

The occasion might arise for Orrick or Perez Law, at each firm's own expense, to consult regarding the Matter or this engagement with its own counsel (e.g., each firm's general counsel, other firm lawyers working with Co-Bond Counsel's respective general counsel who do not perform work for Issuer in connection with the services provided pursuant to this Engagement Agreement, or Orrick's own outside counsel). To the extent that each firm is addressing its own rights or responsibilities, a conflict of interest might be deemed to exist between such firm and Issuer as to such consultation or resulting communications, particularly if a dispute were ever to arise between such firm and Issuer regarding the Matter. A condition of this engagement is that Issuer hereby consents to such consultation occurring, and waives any claim of conflict of interest based on such consultation or resulting communications that could otherwise disqualify each firm from continuing to represent Issuer or from acting in each firm's own behalf, even if such consultation or communications might be deemed adverse to the interests of Issuer. Issuer acknowledges and agrees that any such consulting and communications are protected from disclosure to Issuer by each firm's own attorney-client privilege.

6. Responsibilities of Co-Bond Counsel and Issuer

Issuer shall have and will rely on Issuer's elected, appointed or retained chief legal officer or on outside counsel (other than Co-Bond Counsel) ("Issuer Counsel") to render day-to-day and ongoing general legal services and to advise Issuer with respect to all Governmental Decisions. Co-Bond Counsel shall circulate documents to and coordinate its services with Issuer Counsel to the extent requested by Issuer or Issuer Counsel. Co-Bond Counsel shall be entitled to assume that Issuer Counsel has reviewed all documents and matters submitted to Issuer for adoption or approval or to officers of Issuer for execution prior to such adoption, approval or execution.

In rendering opinions and performing legal services, Co-Bond Counsel shall be entitled to rely on the accuracy and completeness of information provided and certifications made by, and opinions provided by counsel to, Issuer and other parties, counsel and consultants, without independent investigation or verification. Knowledge of attorneys and non-attorneys at Co-Bond Counsel not working directly on the Matter will not be imputed to Co-Bond Counsel nor shall there be any duty on Co-Bond Counsel's part to make any inquiry of such other attorneys or non-attorneys.

Co-Bond Counsel will provide to Issuer legal counsel and assistance in accordance with the Engagement Letter and this Standard Terms of Engagement. Issuer will not look to or rely upon Co-Bond Counsel for any investment, accounting, financial or other non-legal advice or for any advice with respect to Governmental Decisions, including without limitation any advice regarding the character or credit of any person with whom Issuer may be dealing. Although Co-Bond Counsel will at times communicate with Issuer by e-mail, letter, or other written form, Co-Bond Counsel may provide much of its counsel and assistance in telephone conversations and meetings with Issuer. In addition, Co-Bond Counsel shall have the right, subject to applicable rules of professional responsibility, to discard any files or other materials relating to the Matter either before or after termination of Co-Bond Counsel's representation of Issuer.

For Co-Bond Counsel to represent Issuer effectively, Co-Bond Counsel needs Issuer to provide Co-Bond Counsel with complete and candid information regarding matters relating to the Bonds and the Project, and, if Co-Bond Counsel is providing Disclosure Counsel Services, regarding financial, operating and other information material to prospective investors in the Bonds, to keep Co-Bond Counsel informed of relevant developments, to make decisions necessary for Co-Bond Counsel to fulfill its responsibilities with respect to the Bonds and otherwise to provide to Co-Bond Counsel Issuer's reasonable assistance and cooperation.

Each of Orrick and Perez Law shall separately maintain errors and omissions insurance coverage applicable to the services to be rendered pursuant to the Engagement Letter.

The Engagement Letter and these Standard Terms and Conditions shall not be the basis of any breach of contract claim that would have the effect of extending any statute of limitations pertaining to legal malpractice to the statute of limitations pertaining to breach of contract.

Each of Orrick and Perez Law will not be responsible for any services performed by, or acts or omissions of, Perez Law (with respect to Orrick), Orrick (with respect to Perez Law), any co-counsel or other transaction participant.

7. Client Files (Cloud Storage, Retention and Disposition)

Co-Bond Counsel recognizes that cloud computing services offer valuable tools to its clients and has entered into arrangements with certain providers of those services to host, process, and analyze data,

including client data. Orrick's primary Data Management System is cloud based in all permissible jurisdictions.

Upon request, all client records will be delivered to Issuer. If Issuer has a records retention policy in place with which outside counsel will need to comply, Issuer shall advise Co-Bond Counsel so that Co-Bond Counsel may so inform its records department.

Issuer understands that "materials" include paper files as well as information in other forms of storage, including voicemail, e-mail, printer files, electronic document files, facsimiles, dictation recordings, video files, and other formats. Co-Bond Counsel reserves the right, at Co-Bond Counsel's expense, to make copies of documents generated or received by Co-Bond Counsel in the course of Co-Bond Counsel's representation of Issuer. Co-Bond Counsel will maintain the confidentiality of all documents throughout this process.

Co-Bond Counsel's own files pertaining to the Matter will be retained by Issuer. These files include, for example, internal communications, firm administrative records, time and expense reports, personnel and staffing materials, and credit and account records. For various reasons, including the minimization of unnecessary storage expenses, Co-Bond Counsel reserves the right to destroy or otherwise dispose of any of Co-Bond Counsel's own files within a reasonable time after Co-Bond Counsel's engagement pertaining to the Matter has concluded upon written consent of the Issuer.

Co-Bond Counsel will not retain, use, or disclose the personal information we receive in connection with our representation of Issuer for any (i) purpose other than for the specific purpose of our representing Issuer and for our performance under the Engagement Letter, or as otherwise permitted by applicable privacy laws, or (ii) other commercial purpose unless otherwise required or permitted by outside counsel guidelines or specific Issuer instruction.

8. Use of Artificial Intelligence Tools and Machine Learning

Co-Bond Counsel strives to maximize the benefits that innovative tools and approaches can provide for Issuer. Co-Bond Counsel recognizes that cloud-based tools that use artificial intelligence or machine learning can be used to improve the efficacy and accuracy of legal services. Use of artificial intelligence and machine learning tools can also help to reduce the cost of providing legal services. Orrick has entered into arrangements with certain providers of artificial intelligence and machine learning tools to host, process, and analyze data, including client data, and, depending on the nature of the matter, will assess whether the use of such tools would benefit Issuer. Like online services or platforms, such tools are not immune from security or quality compromises, but all are subject to Orrick's cyber security vendor risk management program. Additionally, artificial intelligence or machine learning tools may not be configured to the precise parameters of the required work, as many have pre-built machine learning models that vary as the tool ingests data. Orrick may use data gathered by using these tools to improve budgeting, precedent libraries, template documents, and other data sets to improve client service. Data that is processed into artificial intelligence tools may also be used to improve machine learning algorithms at Orrick or in the tools of third-party vendors. Issuer hereby consents to the use of cloud-based artificial intelligence or machine learning tools unless Issuer has advised Co-Bond Counsel not to do so.

9. Termination

Issuer may terminate Co-Bond Counsel's representation of Issuer at any time, with or without cause upon 30 days written notice, subject to applicable rules of professional responsibility, including if, among other things, Issuer fails to cooperate or follow Co-Bond Counsel's advice on a material matter, or any fact or circumstance arises that, in Co-Bond Counsel's view, renders Co-Bond Counsel's continuing

representation unlawful or unethical. Co-Bond Counsel may terminate or suspend its representation of Issuer, subject to applicable rules of professional responsibility, if the Issuer fails to make timely payment on any invoice. In the event of termination by either Issuer or Co-Bond Counsel, Issuer shall pay Co-Bond Counsel fees and costs for work performed prior to termination and Co-Bond Counsel will have no responsibility or liability whatsoever for any subsequent use of documents prepared or advice provided by Co-Bond Counsel prior to termination. Issuer acknowledges that it has had an opportunity to consult with its counsel about the consequences of Co-Bond Counsel's disclaimer of responsibility and liability herein.

10. Date of Termination

Co-Bond Counsel's representation of Issuer will be considered terminated at the earliest of (i) Issuer's termination of the representation, (ii) Co-Bond Counsel's withdrawal from the representation, (iii) the substantial completion of Co-Bond Counsel's substantive work for Issuer; (iv) the issuance of the Bonds; or (vi) the Issuer's abandonment of the Bond financing.

11. Disclosure for Promotional Purposes

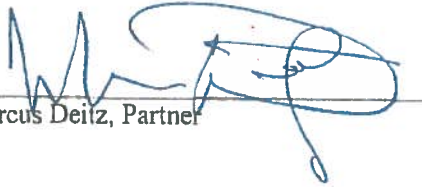
Except as Issuer may otherwise inform Co-Bond Counsel, and subject to any confidentiality arrangements or agreements of which Co-Bond Counsel is made aware between Issuer and any other party with respect to the Matter, Issuer agrees that Co-Bond Counsel may include, in a list of transactions and litigations which Co-Bond Counsel uses for promotional (including press releases and social media posting) and internal purposes, a summary description of publicly disclosed aspects of the Matter.

ORRICK HERRINGTON & SUTCLIFFE, LLP

PEREZ LAW FIRM PLLC

By: _____

Marcus Deitz, Partner



By: _____


Name: Ricardo Perez, Partner



HIDALGO COUNTY

By: _____

Name: Hon. Richard F. Cortez, County Judge



PUBLIC NOTICE

HIDALGO COUNTY, TEXAS NOTICE OF CONTINGENT FEE ENGAGEMENT OF BOND COUNSEL

Pursuant to Texas Government Code Section 2254.1036 (the “Code”), notice is hereby given that the Commissioners Court (“Commissioners Court”) of the Hidalgo County, Texas (the “County”), at the public meeting to be held on October 4, 2022, shall consider the engagement of Orrick, Herrington & Sutcliffe LLP and Perez Law Firm PLLC (the “Law Firms”) to serve as Bond Counsel for a contingent fee. In support thereof, as required by the Code, the following information is provided:

- (A) The Law Firms are proposing to perform legal services as Bond Counsel in connection with the issuance and sale of municipal bonds. The purpose of issuing such bonds is to fund capital projects and other expenses of the County. In connection with such issuances, Bond Counsel reviews the offering materials, coordinates approval of the bonds with the Texas Attorney General and provides a legal opinion to the County in connection with same pursuant to federal tax laws, among others. Best practices and the municipal finance marketplace require such an opinion in connection with the issuance of any municipal security and allow the County to market its securities more effectively and in conformity with industry norms.
- (B) Orrick, Herrington & Sutcliffe LLP been ranked by Thomson Reuters as the number one Bond Counsel law firm in the United States for each of the last 20 years. The Perez Law Firm PLLC has served as Bond Counsel for multiple issuers in the Rio Grande Valley and is very familiar with unique issues faced by issuers in the Rio Grande Valley. The Law Firms have served as Bond Counsel to hundreds of political subdivisions, including Texas counties, as well as other types of issuers of municipal securities, and are familiar with all aspects of municipal securities offerings and the federal tax laws applicable to such offerings.
- (C) The Law Firms have no relationship with the County or the Commissioners Court other than in connection with its response to a Request for Qualifications for Bond Counsel services.
- (D) Bond Counsel services are highly specialized legal services involving Internal Revenue Code regulatory guidance which are not provided by the County’s personnel, and the Law Firms specialize in providing these types of legal services.
- (E) The Law Firms provide Bond Counsel services on a fixed fee basis, and fees are paid from the proceeds of the bond issuance. This allows the County to have certainty of its costs prior to the issuance of such bonds, which allows it to size its bonds with greater certainty. An hourly fee arrangement would not allow certainty as to issuance expenses which could operate to prohibit the closing of any particular bond offering.
- (F) This contingent fee contract is in the best interest of the County because it is industry standard for Bond Counsel, and many other types of legal and financial counsel associated with an offering of municipal securities, to work on a contingent fixed-fee basis. This standard has been in place for almost a century. It allows certainty as described above and also allows political subdivisions to know exactly how much their legal services will cost if and when a bond financing closes.

EXECUTED as of the day and year first written above.

APPROVED BY COMMISSIONERS' COURT ON October 04, 2022.

Agenda Item No. 87688

Executive Office: MM

COUNTY:
COUNTY OF HIDALGO

Richard F Cortez

Hon. Richard F. Cortez, County Judge

APPROVED AS TO FORM

Office of the Criminal District Attorney,
Ricardo Rodriguez, Jr.

AR

Amanda D. Austin, Assistant District Attorney

ATTEST:

Arturo Guajardo Jr

Arturo Guajardo, Jr., County Clerk



ATTACHMENTS:

(If Applicable)

SUPPLEMENTAL SIGNATURES:

(If Applicable)

1. AI-87703 A. Requesting authority and approval to advertise the procurement packet as attached hereto for "Workers' Compensation Loss & Funding Projections Actuarial Study" including re-advertising if necessary.

B. Requesting action to appoint an Evaluation Committee to grade the proposals received for "Workers' Compensation Loss & Funding Projections Actuarial Study";

- 1. _____
- 2. _____
- 3. _____
- 4. _____
- 5. _____

F. Tax Office

1. AI-87727 Requesting approval of the final negotiated agreement [C-22-0188-10-04] with Appraisal & Collection Technologies, LLC for RFP 22-0188-08-10-KMG "Automated Tax Collection"

APPROVED

G. Budget & Management

1. AI-87688 Requesting approval of the final negotiated letter of engagement [C-22-0326-10-04] with Co-Bond Counsel Orrick, Herrington, & Sutcliffe LLP and Perez Law Firm for RFQ 22-0326-07-14-KMG "Bond Counsel Services".

H. Sheriff's Office

1. AI-87734 Requesting authority to purchase Phase 1 equipment for the System Design and Integration of the Adult Detention Center security camera upgrade through BuyBoard Cooperative Contract #654-21, awarded vendor Superior Alarms, in the total amount of \$376,260.73.

2. AI-87126 A. Requesting approval of the agreement below with Superior Alarms for Security Monitoring Services for the Academy building located at 711 El Cibolo Rd.; with authority for County Judge to sign all required documents.

Agreement	Term	Monthly Cost
Standard Commercial Security Agreement	5 years w/automatic renewals thereafter	\$35.00/mo

B. Requesting authority for Sheriff, "Eddie" Guerra or his designee to sign and complete the following required documents: "Schedule of Equipment and Services", "Call List", and "Additional Equipment, Systems and Service Disclaimer Notice," as part of the agreement between HCSO and Superior Alarms.

3. AI-87737 A. Acceptance and approval of the agreement below with Superior Alarms for Security Monitoring Services and equipment purchase for the Vicksburg building located at 12401 Vicksburg Dr.; with authority for County Judge to sign all required documents.

Agreement	Term	Equipment Purchase Price (one time fee)	Cost
Standard Commercial	5 years with	\$1,404.00	



HIDALGO COUNTY PROCUREMENT PACKET

**Request for Qualifications
RFQ No: 22-0326-07-14-KMG**

“Bond Counsel Services”

**Acceptance Due Date:
Thursday, July 14, 2022 at 2:00 PM**
Eduardo Belmarez, MBA, CPM
Hidalgo County Purchasing Director

Project Contact Information:

Keila M. Gonzalez, Contract Specialist I
(956) 318-2626 Ext. 4874
keila.gonzalez@co.hidalgo.tx.us



2812 S. Bus. Hwy 281
Edinburg, Texas 78539
Phone: (956) 318-2626
Fax: (956) 318-2629
www.co.hidalgo.tx.us/purchasing

June 20, 2022

Company Name

Authorized Representative

Address

City, State

Zip Code

**RE: HIDALGO COUNTY - REQUEST FOR QUALIFICATIONS
RFQ NO.: 22-0326-07-14-KMG – BOND COUNSEL SERVICES**

Dear Prospect Offeror:

Hidalgo County Purchasing Department welcomes and appreciates your interest and participation. For your review and consideration, enclosed find the procurement packet for the aforementioned project. Modifications and new requirements have been added and implemented. Please ensure to carefully read and review all instructions, requirements and specifications.

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

Sincerely,

A handwritten signature in blue ink, appearing to read "EB", is written over a horizontal line.

Eduardo Belmarez, MBA, CPM
Hidalgo County Purchasing Director

TABLE OF CONTENTS

This procurement packet includes the components marked below. If the item is not checked, it is not applicable to this solicitation. Offerors are asked to review the documentation to be sure that all applicable parts are included. If any portion of the documentation is missing, notify the Purchasing Department immediately. Offeror should be thoroughly familiar with all of the following items applicable to this procurement packet before submitting a response.

<u> X</u>	Procurement Overview.....	4
<u> X</u>	Legal Notice.....	9
	Appendices:	
<u> X</u>	A Requirements/Specifications.....	24
<u> X</u>	B Professional Services Procurement under Tx LGC, Ch. 2254.....	30
<u> X</u>	C Insurance Requirements.....	34
<u> X</u>	D Conflict of Interest Questionnaire (CIQ).....	40
<u> X</u>	E Vendor Enrollment Solution and HUB Declaration.....	43
<u> X</u>	F Certification Regarding Debarment.....	46
<u> X</u>	G Title VI Appendices “A” through “E”.....	48
<u> X</u>	H Required Contract Clauses for Contracts Under Federal Award.....	54
	I FHWA 1273.....	
<u> X</u>	J Respondent’s Affidavit.....	69
	K Draft Agreement.....	
<u> X</u>	L Deficiencies and Deviations Form.....	71
<u> X</u>	M Reference Form.....	73



PROCUREMENT OVERVIEW

PROCUREMENT OVERVIEW

THE RESPONDENT IS RESPONSIBLE FOR READING AND UNDERSTANDING ALL DOCUMENTS, FORMS, SPECIFICATIONS, AND INSTRUCTIONS WITHIN THIS ENTIRE DOCUMENT.

Follow all instructions; you are responsible for obtaining any information needed in order to respond to this **RFQ**. Further, the Respondent is responsible for providing any and all relevant information necessary to submit a Statement of Qualifications (“**SOQ**”) to this **RFQ**. Failure to do so will be at the Respondent’s risk and may result in rejection of the **SOQ** as non-conforming.

General Requirements apply to all advertised solicitations; however, these may be superseded, whole or in part, by OTHER DATA CONTAINED HEREIN. Review the Table of Contents. Be sure your **SOQ** package is complete.

INTRODUCTION

Hidalgo County (“County”) is soliciting **SOQs** from qualified law firms to provide Professional Bond Counsel Services, in accordance with the requirements attached hereto as **Appendix “A”**, to the County.

The **SOQ** should address all Requirements herein. Respondent may suggest substitutions of features that they feel would be in the best interest of the County; however, a strong rationale must be presented for any deviation from the requirements, and County reserves the right to reject the deviation and its effect on the overall **SOQ**.

SELECTION

First, the County will evaluate, rank, and score the Respondents, based on the **SOQ**, which shall demonstrate competence, qualifications, and experience in the provision of Bond Counsel services. All **SOQs** will be examined by an **Evaluation Committee** designated by the Hidalgo County Commissioners Court.

After the selection of a qualified respondent, a proposed contract for services shall be negotiated in accordance with the Professional Services Procurement Act, Tex. Govt. Code Ann. 2254.001, et seq. and submitted to the Commissioners Court for final approval.

***NOTICE: If the Bond Counsel services proposed contract is one which the payment of the fee for the services is contingent in whole or in part on the outcome of the matter for which the services were obtained, the County shall comply with the requirements set for in Subchapter C, Chapter 2254 of the Texas Government Code.**

No award can be made until approved by Hidalgo County Commissioners Court. This **RFQ** does not obligate Hidalgo County to the eventual purchase of any Bond Counsel service described, implied or which may be proposed. Progress toward this end is solely at the discretion of Hidalgo County and may be terminated at any time prior to execution of an agreement.

TERM OF AGREEMENT

It is intended that the initial contract term will be for two (2) years with the County’s sole option to renew/extend for an additional one (1) year term, under the same rates, terms, and conditions. The County may terminate this Agreement at any time for any reason or no reason at all upon giving thirty (30) days written notice.

GENERAL REQUIREMENTS

One (1) original and two (2) USBs in original PDF format. Further instructions are listed below.

SUBMISSION DEADLINE AND SOQ OPENING

All submissions must be received on or before **Thursday, July 14, 2022 at 2:00PM**. Any **SOQ** received after this deadline will not be accepted and will be returned unopened to the sender.

SOQ OPENING STREAMING

Due to the ongoing pandemic, and in order to comply with social distancing protocols and/or any applicable order(s), the Hidalgo County Purchasing Department is limiting the number of participants allowed in our office during Statement of Qualification (“**SOQ**”) openings to authorized personnel only; however, this is a public **SOQ** opening and it can be accessed via a live stream or by calling in the day of the event.

Live stream:

<https://hidalgocounty.zoom.us/j/96464676754?pwd=K1hiY3YxN0xPem5pd2xZazYzWHF4UT09>

Meeting ID: 964 6467 6754

Passcode: 545411

Dial by your location: +1 346 248 7799 US (Houston)

To find your local number: <https://hidalgocounty.zoom.us/u/abObUBYixl>

Join by SIP: 96464676754@zoomerc.com

HAND DELIVERED SOQ :

When hand delivering **SOQ**, Hidalgo County requires the Respondent to make sure that the submitted package is stamped with the date and time by the Hidalgo County Purchasing staff.

ELECTRONIC TRANSMISSION OF SUBMISSION:

Hidalgo County Purchasing Department will not accept telegraphic or electronically transmitted **SOQ**.

DELIVER TO:

US Postal Mail Address:

Eduardo Belmarez, MBA, CPM, Purchasing Director
ATTN: Keila M. Gonzalez
Hidalgo County Purchasing Department
Administration Building
2812 S. Business Hwy. 281
Edinburg, Texas 78539

Physical Address:

Eduardo Belmarez, MBA, CPM, Purchasing Director
ATTN: Keila M. Gonzalez
Hidalgo County Purchasing Department
Administration Building
2802 S. Business Hwy. 281
Edinburg, Texas 78539

SIGNING OF SUBMISSION:

In order to be considered, all submittals must be signed by an authorized representative of the firm. Please **sign the original in blue ink** and ensure the copy is clearly labeled.

QUESTIONS AND ANSWERS:

Questions must be submitted via email to keila.gonzalez@co.hidalgo.tx.us by **Tuesday, July 05, 2022, at 5:00 PM**. Responses to submitted questions will be emailed to all participants who obtained their procurement packet directly from Hidalgo County Purchasing Department by **Thursday, July 07, 2022**. Telephone inquiries will not be accepted.

RESTRICTIVE OR AMBIGUOUS REQUIREMENTS:

It is the responsibility of the Respondent to review the procurement packet and to notify the Hidalgo County Purchasing Department if the specifications in Appendix "A" sections I-VI and Appendix "B" are formulated in a manner that would unnecessarily restrict competition, or clarification on any Appendix and/or section that is ambiguous. Any such notice, protest, concern, or question regarding any Appendix and/or section or procedures must be received in writing via email by the deadline stated for Questions and Answers.

COST OF SUBMISSION:

Hidalgo County will not be liable for any costs incurred by the Respondent in preparing a Statement of Qualification ("SOQ") to this procurement packet. Each Respondent acknowledges it is submitting a **SOQ** at their own risk and expense. Further, no reimbursement for such charges or expenses shall be passed onto Hidalgo County. Hidalgo County makes no guarantee that any services from a qualified Respondent will be purchased as a result of this solicitation and reserves the right to reject any and all **SOQ** received. All **SOQ** and accompanying documentation received will become the property of Hidalgo County.

WAIVING OF INFORMALITIES:

Hidalgo County reserves the right to waive minor informalities or technicalities when it is in the best interest of Hidalgo County.

NOTICE OF COMMUNICATION:

All communications by a Respondent to the County, its officials, and department heads regarding this procurement shall be done through the Hidalgo County Purchasing Department. No respondent, 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 this procurement packet 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 respondent outside of a posted meeting of the governing body, a regular meeting of a standing or appointed committee, or negotiation with a respondent which has been specifically authorized by the governing body.

RESPONDENT INSTRUCTIONS:

SOQ provided shall be formatted and organized in the following order for consistency and easy screening:

- All **SOQ** submissions must be typed, single-spaced, and printed single-sided on 8 ½" by 11" paper.
- One (1) original, **clearly marked "ORIGINAL"** and two (2) USBs in PDF format. Original document must be submitted with a Cover Page containing the information listed in the Submission Outline/Checklist, under Submission Cover Page. Two (2) USBs containing the complete **SOQ** in PDF, Word, and/or Excel format must be provided and placed in the **ORIGINAL SOQ**. The PDF document must also be signed. A self-adhesive packet may be used to secure the USB. The USB must also be properly labeled.
- The complete **SOQ** must be sealed in an appropriately sized envelope or box for delivery to the Hidalgo County Purchasing Department, per instructions in the Procurement Packet Submission paragraph of the Legal Notice section contained within this procurement packet.
- All documents must be labeled with the respondent's name and the **RFQ** number. Any **SOQ** received by the Hidalgo County Purchasing Department that is not identified on the outside with the **RFQ** number will be at risk for rejection.
- Each section of the Respondent's **SOQ** should start on a new page. A tabbed divider page marked with the section number should be used to separate each section.
- Prepare a Table of Contents for the **SOQ** being submitted and place it after the Submission Cover Sheet and before Section I. The Table of Contents must list all Sections and the contents of each section as listed in **Appendix "A"**.
- The **SOQ** must be in the order listed in the "Statement of Qualifications Outline/Checklist" below.

REMAINDER OF THIS PAGE LEFT INTENTIONALLY BLANK.

SUBMISSION OUTLINE/CHECKLIST

To assist in ensuring all submissions received are complete, it is recommended for the Offeror to use this Submission Outline as a Checklist prior to submitting a response. All Responses must be submitted in the following order with the guidelines provided within this solicitation:

- _____ Cover Sheet
 - Company Name, Company Address, Company Phone Number
 - Project Name: "Bond Counsel Services"
 - Procurement Number: RFQ No. 22-0326-07-14
 - Opening Date: Thursday, July 14, 2022
 - Opening Time: 2:00 PM
- _____ Table of Contents
- _____ Required Documents
 - _____ Legal Notice Acknowledgement
 - _____ Appendix "A" - Requirements/Scope of Service
 - _____ I. Understanding of the Project
 - _____ II. Requirements
 - _____ III. Understanding of the Project
 - _____ IV. Respondent Information
 - _____ V. Respondent Experience and Qualifications
 - _____ VI. Bond Counsel Contract Proposal
 - _____ Appendix "C" - Insurance Requirements
 - Proof of Insurance
 - Insurance Requirement Acknowledgement
 - Project Requirements Acknowledgement
 - _____ Appendix "D" - Conflict of Interest Questionnaire
 - CIQ Form - Copy of County Clerk File with fee receipt (when applicab
 - _____ Appendix "E" - Vendor Forms
 - Vendor Enrollment Solution Form
 - HUB Declaration
 - _____ Appendix "F" - Certification Regarding Debarment
 - Signed Certification
 - SAM.gov Registration Acknowledgement
 - _____ Appendix "H" - Contracts Under Federal Award 2 - CFR 200
 - Byrd Anti-Lobbying Contract Clause
 - 2 CFR 200 Certification
 - _____ Appendix "J" - Respondent's Affidavit
 - _____ Appendix "L" - Deficiencies and Deviations Form (when applicable)
 - _____ Appendix "M" - References
 - _____ Addenda (when applicable; see Addenda under Legal Notice)



LEGAL NOTICE

LEGAL NOTICE

These General Provisions are considered standard language for an Offeror (hereinafter referred to as “Offeror”, “Vendor”, “Respondent”, or “Contractor”) submitting a response for a Request for Bids, Proposals, Qualifications or other solicitation (hereinafter referred to as “Procurement Packet”) made by the County of Hidalgo (hereinafter referred to as “Hidalgo County” and “County” or any other governing body/agency for which the Hidalgo County Purchasing Department has been authorized to perform procurement services.

It is the Offeror’s sole responsibility to be in compliance of all federal, state, and local laws, requirements, rules, codes, ordinances, and regulations applicable to their proposed goods and/or services. In the event of any conflict between the terms and provisions of these requirements and the specifications, the specifications shall govern. In the event of any conflict of interpretation of any part of this overall procurement packet, Hidalgo County’s interpretation shall govern.

The following is a link to all adopted Hidalgo County policies (<https://www.hidalgocounty.us/805/County-Administrative-Policies>), which for all purposes, when applicable and whether specified explicitly or not, are incorporated by reference as part of this procurement packet and any resulting agreement.

- 1. ACCEPTANCE OF SUBMISSION.** Receipt of the submission shall under no circumstance obligate Hidalgo County to accept the response, or make an award. The Offeror is responsible for obtaining any information needed in order to respond and for all costs of submitting its response. An Offeror’s submitted response is to remain firm for a minimum of sixty (60) days after opening. Hidalgo County is not responsible for any missing, lost, or late submissions.
- 2. ACCESS TO RECORDS.** In special circumstances, Vendor may be required to allow duly authorized representatives of Hidalgo County, or the state and federal government access to contracts, books, documents, and records necessary to verify the nature and extent of the cost of services provided by Vendor. Vendor must keep records within Hidalgo County or note in their submission that records will be available within the boundaries of Hidalgo County to those representatives within one (1) business day of request by the County.
- 3. ACCOUNT CREATION FOR PAYMENT.** Upon award and prior to execution of a contract, Offeror shall cooperate with and submit any required information to the Hidalgo County Auditor’s Office in order to establish an account with the County for payment, including information requested on Hidalgo County Vendor Enrollment Solution, **Appendix “E”** on this procurement packet. This information must be on file with the Hidalgo County Purchasing Department and the Hidalgo County Auditor’s Office. Failure to provide this information may result in a delay in payment and/or back-up withholding as required by the Internal Revenue Service.
- 4. ADDENDA.** When specifications interpretations, amendments, corrections or changes are revised, the Hidalgo County Purchasing Department will issue an Addendum addressing the nature of the change. All released Addenda will be e-mailed to all point of contact(s) who are known to have received or requested a copy of the procurement packet directly from the Hidalgo County Purchasing Department. Offeror must **sign in blue ink and include it in the returned submission package.**
- 5. ASSIGNMENT.** The successful Offeror shall not assign, sell, transfer, convey, or otherwise transfer its rights under any awarded contract, in whole or in part, without the prior written consent of County of Hidalgo County Commissioners Court (hereinafter referred to as “Commissioners Court”), or other applicable governing body.
- 6. AWARD.** Hidalgo County reserves the right to award this contract on the basis determined on the Procurement Overview, and when applicable, listed on **Appendix “B”**, in accordance with the laws of the State of Texas, to waive any formality or irregularity, to make awards to more than one Offeror, and to reject any or all submissions received. After Hidalgo County Commissioners’ Court approves an award, and the awarded Contractor defaults in meeting the general requirements and/or specifications in complying with the contract agreement, Hidalgo County reserves the right to seek the services of the next lowest bidder(s) and/or qualified Offeror(s). In such event, Hidalgo County shall charge the Awarded Vendor the difference for any additional cost of such item. Hidalgo County reserves the right to add or delete items during the term of the contract under the same rates and conditions.

7. **COMPLIANCE WITH FEDERAL, STATE, AND LOCAL LAWS.** The County will search a database maintained by the Texas State Comptroller which contains relevant vendor information. 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. The Offeror shall follow all federal, state, and local laws, requirements, rules, codes, ordinances, regulations and Hidalgo County Policy & Procedures applicable to their proposed goods and/or services, including, but not limited to those addressed within this procurement packet, the resulting agreement and the following:

7.1 Attestation Terrorist Organizations - TEX. GOVT. CODE CH. 2252. Pursuant to the Texas Government Code, including but not limited to Chapter's 2252, 806 and 807, the Offeror warrants, represents, certifies and attests that, by submitting a response to this procurement packet and/or at the time of execution of this Contract, Agreement, or supplemental agreement thereafter, neither the Offeror, nor any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of the same (i) engages in business with Iran, Sudan, or any foreign terrorist or (ii) is a company listed by the Texas Comptroller of Public Accounts.

7.2 Breach of Ethics. 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.

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 response to a request 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.

7.3 Bonds. If this procurement packet requires submission of bid bond or proposal guarantee, and performance and payment bonds, an explanation of these requirements will be detailed on the Projects Requirements Acknowledgement listed in **Appendix "C"**. Responses submitted without the required bond or cashier's checks may be deemed unresponsive, thus disqualified from participation.

7.4 Boycott Energy Companies Verification – TEX. GOVT. CODE 2274. In accordance with changes to the law from the 87th Legislature in 2021, a for-profit company, not including a sole proprietorship, with ten or more full-time employees, is required to verify in writing that it does not boycott energy companies, and it will not boycott energy companies during the term of the Contract, if it is a contract for goods or services that has a value of at least \$100,000 that is paid wholly or partly from public funds of the governmental body. Written verification may be provided by signing the Legal Notice Declarations page. Please provide a written notification if your company is unable to provide the written verification referenced above.

As per Tex. Gov't. Code §809.001(1), "Boycott energy company" means "without an ordinary business purpose, 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 with a company because the company: (A) engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy and does not commit or pledge to meet environmental standards beyond applicable federal and state law; or (B) does business with a company described by Paragraph (A)".

As per Ch. 2274(c), this verification requirement does not apply to the County if it determines that this requirement is inconsistent with the County's constitutional or statutory duties related to the issuance, incurrence, or management of debt obligations or the deposit, custody, management, borrowing, or investment of funds.

7.5 Boycott Israel Verification - TEX. GOVT. CODE 2270. In accordance with the Texas Government Code, including but not limited to Chapters 2270 and 808, a company, other than a sole proprietorship, with ten or more full time employees is required to certify in writing that it does not boycott Israel and will not boycott Israel during the term of the Contract, if the Contract has a value of \$100,000 or more.

7.6 Certification Regarding Debarment, Suspension Ineligibility, and Voluntary Exclusion. The Offeror warrants and represents by execution of an award from their response to this procurement packet that it is not debarred, suspended, or otherwise excluded from or ineligible for participation in any Federal programs, or state assistance, as described under Executive Order 12549, "Debarment and Suspension." The Offeror agrees to include this certification in all contracts between itself and any subcontractors in connection with the services performed under any subsequent Contract or Agreement arising from this award. The Offeror also acknowledges that it is their sole responsibility to immediately notify Hidalgo County, in writing, if they or a subcontractor is not in compliance with Executive Order 12549 during the term of this contract. Further, Offeror agrees to refund Hidalgo County for any payments made to the contractor while ineligible. Pursuant to federal regulation 45 CFR Part 76, the Offeror is required to furnish a certification or acknowledgement stating that they are free from suspension and debarment through registration on System for Award Management at www.sam.gov with their response.

7.7 Davis-Bacon Act/Hidalgo County Adopted Prevailing Wage Rate. When applicable, in accordance with Texas Government Code, Chapter 2258, as well as any other applicable laws, any Contractor or Subcontractor performing contracts in excess of \$2,000, for the construction, alteration, or repair (including painting and decorating) of public buildings or public works must pay their laborers and mechanics employed under the contract no less than the locally prevailing wages and fringe benefits for corresponding work on similar projects in the area as per the Davis Bacon Act or the rates adopted by Hidalgo County.

The Offeror warrants and represents that it will pay all its workers all monies earned by its employees including, but not limited to regular wages, any overtime compensation, or any additional payments pursuant to the Fair Labor Standards Act, 29 U.S.C. Section 207 9a(1), as amended; the Texas Pay Day Act; the Equal Pay Act; Title VII of the Civil Rights Act of 1964, 42 U.S.C. Section 2000e, *et al.*, as amended; and/or any provisions of the Texas Labor Code Ann., as amended, without cost or expenses to the County.

Awarded Vendors, its officers, agents, and/or employees will not be entitled to any benefits of an employee or elected official of Hidalgo County, including, but not limited to, benefits associated with Hidalgo County's civil service system.

7.7 Disclosure of Conflict of Interest.

7.7.1 As an Offeror. Pursuant to Texas Local Government Code, Chapter 176, an Offeror must disclose an interest between the Offeror, the Offeror's employees and any Hidalgo County employees arising from relationships within the first degree of consanguinity or affinity. A financial interest arises if the County's elected official, department head, or employee, or a member of their family, received any gifts valued in excess of \$250 during the preceding twelve (12) month period, or employment of any County's elected official, department head, or employee, or the County official's family member.

The Offeror shall not use funds to directly or indirectly pay any person for influencing or attempting to influence any County employee or official in connection with the awarding of any contract or the extension, continuation, renewal, amendment or modification of any contract.

7.7.2 Certificate of Interested Parties (Form 1295). Hidalgo County cannot enter into a contract until Form 1295 is submitted, as Texas law, including, but not limited to Tex. Govt. Code

Ch. 2252, Title 1 Tex. Ethics Comm. Rules – Title 1, sec. 46 and the Tex. Admin. Code, requires all parties who enter into any contract with the County which must be approved by its governing body, to disclose all interested parties. Form 1295 must be completed in its entirety through the Texas Ethics Commission at the following website:
https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm prior to awarding the Contract. Failure to do so may result in delay of award, or deem your response unresponsive, thus disqualified from participation.

7.7.3 Collusion. The Offeror affirms that by responding to any solicitation made by Hidalgo County, it has not communicated directly or indirectly the response made to any competitor or any other person engaged in such line of business. Any or all responses may be rejected if the County believes that collusion exists among the Offerors, and/or the County believes prices provided by the Offerors are inappropriately unbalanced. Respondent's Affidavit (**Appendix "J"**) must be included in the response.

7.7.4 Consultants Excluded from Competition. An outside Consultant or Contractor is prohibited from submitting a response for goods or services requested on a Hidalgo County project of which the Consultant or Contractor was a designer or other previous contributor, assisted in developing or drafting specifications, requirements, statements of work, or requests for goods and/or services must be excluded from competing for such procurements. If such, a Consultant or Contractor submits a response, that response shall be prohibited, and disqualified on the basis of conflict of interest, no matter when the conflict is discovered by Hidalgo County.

7.7.5 Disclosure of Interested Parties (Form CIQ). Offeror must fully disclose the existence of any relationships as defined above in its response to this procurement packet. The Conflict of Interest Questionnaire (CIQ), attached hereto as **Appendix "D"**, must be filed with the Hidalgo County Clerk, located inside the Hidalgo County Courthouse, at 100 N. Closner, Edinburg, TX 78539 no later than the seventh business day after the date the person becomes aware of facts that require the statement to be filed. **Completion and submission of Form CIQ is the sole responsibility of the Offeror.** Additionally, the Offeror must immediately notify Hidalgo County if the information provided in its response changes at any time.

7.7.6 Disclosure to Report Lobbying. When applicable, pursuant to 31 U.S.C.A. §1352 (2003), if at any time during the contract term funding to Contractor exceeds \$100,000.00, Contractor shall file with the County the Federal Standard Form LLL titled "Disclosure Form to Report Lobbying" as detailed in **Appendix "H"**.

7.8 Discrimination Against Firearm Entities or Trade Associations Verification - Tex. Gov't. Code Ch. 2274. In accordance with changes to the law from the 87th Legislature in 2021, a for-profit company, not including a sole proprietorship, with ten or more full-time employees, is required to verify in writing that it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not discriminate against a firearm entity or firearm trade association during the term of the Contract, if it is a contract for goods or services that has a value of at least \$100,000 that is paid wholly or partly from public funds of the governmental body. Written verification may be provided by signing the Legal Notice Declaration page. Please provide a written notification if your company is unable to provide the written verification referenced above.

As per Tex. Gov't. Code §2274.001(3), except as otherwise indicated, to "discriminate against a firearm entity or firearm trade association " means "with respect to the entity or association, to: (i) refuse to engage in the trade of any goods or services with the entity or association based solely on its status as a firearm entity or firearm trade association; (ii) refrain from continuing an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; or (iii) terminate an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association".

As per Ch. 2274, this verification requirement does not apply to the County if it contracts with a sole-source

provider, does not receive any bids from a company that is able to provide the required written verification above, or the contract is exempt from compliance under Tex. Gov't. Code sec. 2274.003 relating to the issuance, sale or delivery of notes.

7.9 Disqualification of Offeror. By submitting a response to this request, an Offeror offering to sell supplies, materials, services, or equipment to Hidalgo County certifies that the Offeror has not violated the antitrust laws of this state codified in Texas Business and Commerce Code §15.01, et seq., as amended, or the federal antitrust laws. If multiple submissions are made by an Offeror and after they are opened, the Offeror requests to withdraw one of the submissions is requested to be withdrawn, the result will be that all of the responses submitted by that Offeror will be withdrawn; however, nothing herein prohibits an Offeror from submitting multiple responses for different products or services.

7.10 Ethical Business Practices. Hidalgo County operates its business ethically and in compliance with the law. We ask that any Offeror, their representative, and/or employee doing business with Hidalgo County, who believes they have witnessed any suspected ethical violation or fraud immediately report the allegations to the Hidalgo County Purchasing Director, 2802 S. BUS HWY 281, Edinburg, TX 78539, (956) 318-2626, eduardo.belmarquez@co.hidalgo.tx.us.

Hidalgo County Purchasing Department will conduct a prompt and thorough investigation. At the conclusion of the investigation, Hidalgo County Purchasing Department will refer any suspected criminal activity to the Hidalgo County District Attorney or other appropriate law enforcement agency. Any Offeror who reports suspected ethical violations or fraud can do so without fear of retaliation. Retaliating against any offeror for reporting suspected ethical violations or fraud is strictly prohibited.

7.11 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 as listed in **Appendix "E"**.

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.
- f. 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.

When procurement is related to road construction projects with the Texas Department of Transportation (TxDOT), all respondents must submit their HUB/DBE plans as part of their submission to be qualified to participate.

7.12 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 the County has no supervision of the performance of the Services provided by Vendor, and that Vendor is an independent contractor under an award through this procurement packet.

7.13 Nondiscrimination. By submitting a response to this procurement packet, the Offeror certifies that it will conform to the provisions of the Federal Civil Rights Act of 1964, as amended and related state and federal law.

Offeror, 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).

7.14 Texas Public Information Act. The Offeror understands and agrees that Hidalgo County is a governmental body for purposes of the Public Information Act, codified as Chapter 552 of the Texas Government Code and as such is required to release information in accordance with the Public Information Act (the "Act"). Hidalgo County must rely on advice, decisions and opinions of the Attorney General of the State of Texas relative to the disclosure of data or information. Submissions will be kept confidential in accordance with the Act and applicable law, and **submissions are subject to inclusion into the public record after award.** To the extent permitted by law, Offeror may request in writing non-disclosure of any information that it considers to be confidential, proprietary, and/or trade secret in its submission. Such data shall accompany the submission, be readily separable from the response, and shall be CLEARLY MARKED "CONFIDENTIAL, PROPRIETARY and/or TRADE SECRET". Hidalgo County will make reasonable efforts to provide Offeror notice in accordance with the Act in the event the County receives a request for information under the Act for information that the Offeror has marked as indicated above. E-mail addresses provided by Offeror to the County as part of its response to this procurement packet are not confidential. Additionally, Offeror provides its affirmative consent to the disclosure of its e-mail addresses, including from its employees, officers, and agents acting on its behalf, that are provided to Hidalgo County. This consent shall survive termination of this agreement and apply to any e-mail address provided in any form for any reason whether related to this procurement packet or otherwise.

7.15 Title VI Notice. 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. Further, Title VI has been broadened by related statutes, regulations and executive orders as found in Appendices "A" through "E" as attached hereto as **Appendix "G"**. Offeror agrees to comply with Title VI as may be required.

8. **CONTRACT OBLIGATION.** Hidalgo County Commissioners Court must award the contract and the County Judge must sign the contract before it becomes binding on Hidalgo County or the Offeror. Elected officials, department heads, other County employees or representatives are NOT authorized to sign agreements for Hidalgo County, unless prior authorization is approved by the Hidalgo County Commissioners Court, or respective governing body. Binding agreements shall remain in effect until all products and/or services covered by this procurement packet have been satisfactorily delivered and accepted.
9. **CONTRACT RENEWALS.** Any extension or renewal of the agreement entered into by the parties are made at the County's sole discretion and under the same rates, terms and conditions as the initial agreement, or as amended.
10. **CONTRACT TRANSITION (Grace Period).** In the event services end by either contract expiration or termination, it shall be required that the successful respondent continue services if requested by the Hidalgo County Purchasing Department, until new services can be completely operational. The successful respondent acknowledges its responsibility to cooperate fully with the replacement vendor and Hidalgo County to ensure a smooth and timely transition to the replacement vendor. Such transitional period shall not extend more than sixty (60) days beyond the expiration/termination date of the contract, or any extension thereof. The successful respondent shall be reimbursed for services during the transitional period at the rate in effect when the transitional period clause is invoked by Hidalgo County. During any transition period, all other terms and conditions of the contract shall remain in full force and effect as originally written and subsequently amended.

11. **COST OF GOODS AND SERVICES.** Discount payments will be considered when offered. If during the life of any contract, or response awarded, the successful respondent'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 Hidalgo County. 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.
12. **COUNTY APPROVED HOLIDAYS.** There are fourteen (14) County approved holidays. The Offeror is advised that official County business will not be conducted on those dates. The link of approved holidays can be found on: <https://www.hidalgocounty.us/115/County-Holidays>.
13. **EVALUATION.** Evaluation shall be used as a determinant as to which proposed items or services are the most efficient and/or most economical for the County, considering all factors which have a bearing on price and performance of the items in the user department's environment. All submissions, except for Requests for Bids, may be subject to evaluations and negotiations by the Hidalgo County Purchasing Department, or authorized Hidalgo County representative as approved by Hidalgo County Commissioners Court, with recommendation to the appropriate governing body. Compliance with all requirements, delivery and needs of the user department are considerations in evaluating the responses received. **Pricing is NOT the only criteria for making a recommendation.** A preliminary evaluation by Hidalgo County will be held and appropriate responses will be subjected to the negotiating process and a request for a Best and Final Offer. Upon completion of the negotiations, Hidalgo County will make an award. All responses that have been submitted shall be available and open for public record after the contract is awarded, except for trade secrets or confidential information contained in the responses and identified as such.

Hidalgo County reserves the right to refuse and reject any or all submissions and to waive any or all formalities or technicalities, or to the qualifications considered the best and most advantageous to Hidalgo County. Additionally, Hidalgo County reserves the right to separate and accept or eliminate any item(s) listed under this procurement packet that it deems necessary to accommodate budgetary or operational requirements.

14. **FISCAL FUNDING.** Hidalgo County has the discretion to utilize grant funding or general funding, however, should grant funding be utilized "Grant Funding" rules will apply. The award of a contract hereunder will not be construed to create a debt of the County which is payable out of funds beyond the current fiscal year. Additionally, should funds not be appropriated by the applicable governing body to continue the lease or contract in their sole discretion, said lease or contract shall become null and void on the last day of the current appropriation of funds.

14.1 General Funding. A multi-year lease or lease/purchase arrangement, or any contract continuing as a result of an extension option, must include a fiscal funding out provision in the lease or contract. Funds for this procurement have been provided through the County budget for this fiscal year only. Hidalgo County, on an annual basis and at their discretion, has the right to reconsider a contract during the budget process for ensuing years if financial resources of Hidalgo County are insufficient to meet the liabilities of said contract. After expiration of the lease, leased equipment shall be removed by the Vendor from the user department without penalty of any kind or form to Hidalgo County. All charges and physical activity related to delivery, installation, removal and re-delivery shall be the responsibility of the Vendor.

14.2 Grant Funding. Any contract entered into by the County that is to be paid from grant funds shall be limited to payment from the grant funding, and the Offeror understands that the County has not set aside any County funds for the payment of obligations under a grant contract. If grant funding should become unavailable at any time for the continuation of services paid for by the grant, and further funding cannot be obtained for the contract, then the contract shall be null and void.

Additionally, County contracts subject to assistance from the Federal Emergency Management Agency (FEMA), require inclusion of the contract terms found in **Appendix "H"**. It is the County's intention to comply with FEMA requirements; therefore, any conflict in terms should be resolved as such.

- 15. FORCE MAJEURE.** If by reason of Force Majeure either Party shall be rendered unable, wholly or in part, to carry out its responsibility under this contract by any occurrence by reason of Force Majeure, then the Party unable to carry out its responsibility shall give the other Party notice and full particulars of such Force Majeure in writing within a reasonable time after the occurrence of the event, and such notice shall suspend the Party's responsibility for the continuance of the Force Majeure claimed, but for no longer period. Force Majeure means acts of God, floods, hurricanes, tropical storms, tornadoes, earthquakes, or other natural disasters, acts of a public enemy, acts of terrorism, sovereign conduct, riots, civil commotion, strikes or lockouts, and other causes that are not occasioned by either Party's conduct which by the exercise of due diligence the Party is unable to overcome and which substantially interferes with operations.
- 16. GOVERNING LAW.** This procurement packet is governed by the competitive bidding requirements of the County Purchasing Act, Texas Local Government Code, §262.021 *et seq.*, as amended. Offerors shall comply with all applicable federal, state and local laws and regulations. Offeror is further advised that these requirements shall be fully governed by the laws of the State of Texas and venue shall be performable in a federal or state court or competent jurisdiction in Hidalgo County, Texas. Hidalgo County may request and rely on advice, decisions and opinions of the Attorney General of Texas and the Hidalgo County District Attorney concerning any portion of these requirements. The County does not agree to binding arbitration and does not waive its right to a jury trial.
- 17. HIPAA COMPLIANCE.** When applicable, the Offeror agrees to comply with the requirements of the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191 (codified at 45 C.F.R. Parts 160 and 164), as amended ("HIPAA"); privacy and security regulations promulgated by the United States Department of Health and Human Services ("DHHS"); Title XIII, Subtitle D of the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, as amended ("HITECH Act"); provisions regarding Confidentiality of Alcohol and Drug Abuse Patient Records (codified at 42 C.F.R. Part 2), as amended; and TEX. HEALTH & SAFETY CODE ANN. §§81.046, as amended, 181.001 *et seq.*, as amended, 241.151 *et seq.*, as amended, and 611.001 *et seq.*, as amended collectively referred to as "HIPAA", to the extent that the Offeror uses, discloses or has access to protected health information as defined by HIPAA. Offeror may be required to enter a Business Associate Agreement pursuant to HIPAA.
- 18. INDEMNIFICATION.** **The successful Offeror, shall indemnify, defend, save, and hold Hidalgo County, all its elected officials, officers, agents and employees harmless 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 directly or indirectly from contractor's performance on account of any negligent act or fault of the successful Offeror, or of any agent, employee, subcontractor or supplier in the execution of, or performance under, any contract which may result from 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 Offeror shall pay any judgment with costs which may be obtained against the County growing out of such injury or damages, and shall, upon request, provide a defense to Hidalgo County by counsel reasonably acceptable to the County. The Successful Offeror 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 Offeror.**
- 19. INSPECTIONS & TESTING.** Hidalgo County reserves the right to inspect any item(s) or service location for compliance with specifications and requirements and needs of the user department. If an Offeror cannot furnish a sample of a proposed item, where applicable, for review, or fails to satisfactorily show an ability to perform, the County can reject the response as inadequate.

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 procurement packet shall be subject to the County's approval. Items found to be defective or not meeting specifications shall be replaced by the successful Offeror within two (2) business days at no expense to the County. Items that are not picked up within one (1) week after notification shall be deemed a donation to the County and may be used or disposed of at the County's discretion, without waiver of any other rights of the County as to the items' nonconformity.

- 20. INSURANCE.** Contractor shall procure and maintain, with respect to the subject matter of this procurement packet, appropriate insurance coverage including, as a minimum, public liability and property damage with adequate limits to cover contractor's liability as may arise directly or indirectly from work performed under terms of this procurement packet. Certification of such coverage must be provided to the County as part of this response. (See **Appendix "C": Insurance Requirements**). Prior to award, Hidalgo County must be listed as a Certificate Holder to the policies.
- 21. LEGAL DOCUMENTS.** Offeror should submit any agreement for products and/or services which may be required by their organization to enter into a contract with Hidalgo County. The awarded vendor will be required to execute an agreement with Hidalgo County which finalizes the terms and conditions set forth in their response, best and final offer, and any negotiations between the Offeror and Hidalgo County. The agreement is subject to review and amendment by the Hidalgo County District Attorney's Office.
- 22. MAINTENANCE.** Maintenance required for equipment proposed should be available in Hidalgo County by a manufacturer-authorized maintenance facility. Costs for this service shall be shown on **Appendix "B"**. If Hidalgo County opts to include maintenance, it shall be so stated in the purchase order and said cost will be included. Service will commence only upon expiration of applicable warranties and should be priced accordingly.
- 23. MARKET VOLATILITY AND UNIT PRICE ADJUSTMENTS.** When applicable, Hidalgo County recognizes that during periods of national crisis and unstable economic conditions, unforeseen price increase might affect costs for goods and services contracted on an annual basis. As such, upon written request of the Vendor to the County Purchasing Agent, the County may review evidence of prevailing industry-wide market conditions that may warrant an adjustment in bid prices contained in the contract. When applicable, the following procedure and conditions may be employed to mediate price volatility:
- A Vendor shall:
 - make its Market Volatility and Unit Price Adjustment request in writing to the County Purchasing Agent.
 - 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.
 - 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.
 - notify the County at the time when the Vendor's costs for items, supplies, and or services 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.
 - 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 retains the right to determine whether or not such proposed price changes are in the best interest of the County.
 - The County may only grant a price increase if the evidence presented is deemed reliable.
 - No price escalation will be authorized in excess of the amount of the increase referred to in the supplier's notice.
 - The total increase in contract price shall not exceed twenty-five percent (25%) of the original contract price during the contract term.
 - 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.
 - Price increases are only valid for the quarter in which they are requested and approved.
 - Prices shall return to the original contract price at the beginning of the following quarter unless a Vendor notifies the County in writing within ten (10) days of expiration of the quarter in which the price increase is in effect, that it desires to have the price increase continue or that the Vendor is requesting a different price increase for the following quarter. Such request must be supplemented

with sufficient justification to demonstrate that the price increase remains necessary. The County Purchasing Department shall have sole discretion whether to grant the price increase extension.

- The County Purchasing 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.
- 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.

- 24. MATERIAL SAFETY DATA SHEETS.** Under the "Hazardous Communication Act", commonly known as the "Texas Right to Know Act", an Offeror must provide to the County with each delivery, safety data sheets which are applicable to hazardous substances defined in the Act. Failure of the Offeror to furnish the required documentation will be cause to reject any response applying thereto.
- 25. MINIMUM STANDARDS FOR RESPONSIBLE PROSPECTIVE RESPONDENTS.** With their submitted response, the Offeror must affirmatively demonstrate their responsibility as listed on **Appendix "A"**. A prospective respondent, by submitting a response, represents to County that it meets the requirements listed.
- 26. NAME BRANDS.** Specifications may reference name brands and model numbers. It is not the intent of Hidalgo County to restrict or preclude competition in any way, but to establish a desired quality level of merchandise or to meet a pre-established standard due to like existing items. Offerors may offer items of equal stature and the burden of proof of such stature rests with Offerors. Hidalgo County shall act as sole judge in determining equality and acceptability of products offered.
- 27. NEW MILLENNIUM COMPLIANCE.** All products and/or services furnished as part of this contract must be compliant for the present year and forward. This applies to all computers including hardware and software as well as all other commodities with date sensitive embedded chips.
- 28. PAYMENT UNDER CONTRACT.** 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.
- 29. PERFORMANCE ENFORCEMENT.** Hidalgo County reserves the right to enforce performance of any contract, agreement, supplemental agreement, as amended, or participation in the professional services pool, in any manner prescribed by law or deemed to be in the best interest of the County. Hidalgo County reserves the right to terminate the contract awarded hereunder in any manner prescribed by law or deemed to be in the best interest of the County immediately in the event of breach or default by a successful respondent, including, but not limited to failure to maintain qualifications, meet schedules, pay any required fees or taxes, or otherwise failing to perform in accordance with the requirements of this procurement packet.
- 30. POST-AWARD DELIVERY INSTRUCTIONS.** Title and Risk of Loss of goods shall not pass to Hidalgo County until Hidalgo County actually receives and takes possession of the goods at the point or points of delivery. Receiving times may vary with the user department. Generally, deliveries may be made between 8:30 a.m. and 4:00 p.m., Monday through Friday, except on County approved holidays. The Offeror is advised to consult the user department for instructions, and be given at least seventy-two (72) hours prior notice of delivery, if applicable, before delivery will be accepted. The place of delivery shall be identified in the Requirements/Specifications attached hereto as **Appendix "A"** of this procurement packet and/or on the Purchase Order as a "Deliver To:" address.
- 31. POST-AWARD INVOICES AND PAYMENTS.** Offerors shall submit an original, itemized invoice on company letterhead with their company name and address, detailing the deliverable(s) of goods and/or services provided, the respective price, product code, item number, quantity, etc. per line item, the name of receiving/requesting department or elected office, the delivery address, the awarded vendor's contract number, and issued purchase order number. Any invoice, which cannot be verified by the contract price and/or is otherwise incorrect, will be returned to the Offeror for correction. Under term contracts, when multiple deliveries and/or services are required, the Offeror may invoice following each delivery and the County will pay on invoice. Contracts providing for a monthly charge will be billed and paid on a monthly basis only. All payments are

subject to compliance with the Texas Prompt Payment Act.

Deliverables or services will be considered complete only upon written acceptance by Hidalgo County. No charges may be billed to Hidalgo County unless such costs are explicitly included in the agreement or contract. For billing and payment questions please contact the Hidalgo County Auditor's Office, 2808 S. Business Hwy. 281, Edinburg, Texas 78539, (956) 318-2511.

32. PROCUREMENT PACKET FORM COMPLETION. Fill out and return to the Hidalgo County Purchasing Department one (1) complete response in an appropriately sized envelope or box. **PACKAGE MUST SHOW THE COMPANY NAME, RETURN ADDRESS, THE RFB, RFP, RFQ, etc., PROJECT DESCRIPTION, OPENING DATE AND TIME, AND BE MARKED "SEALED SUBMISSION"**. An authorized representative of the Offeror should sign the Submission Cover Sheet. The contract will be binding only when signed by Hidalgo County, funds are certified by the Hidalgo County Auditor, and an official Hidalgo County Purchase Order is issued by the Hidalgo County Purchasing Department.

33. PROCUREMENT PACKET SUBMISSION. Offeror must submit all completed responses to the Hidalgo County Purchasing Department reception desk at 2802 S. BUS. HWY 281, Edinburg, Texas 78539 by the date and time listed under the Submission Deadline and Bid Opening section of the Procurement Overview. **Late submissions will not be accepted for any reason.**

33.1 Supplemental Materials. Offerors are responsible for including all pertinent product data in the submitted response to this procurement packet. Literature, brochures, data sheets, specification information, completed forms requested as part of the procurement packet and any other facts which may affect the evaluation and subsequent contract award should be included. Materials such as legal documents and contractual agreements, which the Offeror wishes to include as a condition of the submission, must also be in the submitted response. Failure to include all necessary and proper supplemental materials may be cause to reject the entire response.

34. PROOF OF BUSINESS. Offeror must be in business under its current name and in its current form (e.g., proprietorship, Chapter S Corporation). Information to be included as part of the Vendor Application, **Appendix "E"**.

35. PURCHASE ORDER AND DELIVERY. The successful Offeror shall not deliver products or provide services without a Hidalgo County Purchase Order, signed by the Hidalgo County Purchasing Director, or an authorized agent of the Hidalgo County Purchasing Department. When applicable, the fastest, most reasonable delivery time shall be indicated by the Offeror in the proper place on **Appendix "B"**. Any special information concerning delivery should also be included, on a separate sheet, if necessary. All items shall be shipped **F.O.B. INSIDE DELIVERY** unless otherwise stated in the specifications. This shall be understood to include bringing merchandise to the appropriate room or place designated by the user department. Every tender or delivery of goods must fully comply with all provisions of these requirements and the specifications including time, delivery and quality. Nonconformance shall constitute a breach which must be rectified prior to expiration of the time for performance. Failure to rectify within the performance period will be considered cause to reject future deliveries and cancellation of the contract by Hidalgo County, without prejudice to other remedies provided by law. **Where delivery times are critical, Hidalgo County reserves the right to award accordingly.**

Goods and/or Services must not be provided and **invoices will not be paid** without a purchase order signed by the Hidalgo County Purchasing Director.

36. QUALIFICATIONS OF OFFEROR. Offeror's failure to qualify or maintain qualifications throughout the term of this agreement shall release Hidalgo County from all obligations to the Offeror with regard to the services. In such an event, Hidalgo County may elect to engage another qualified firm or reject all submissions and re-advertise.

37. RECYCLED MATERIALS. Hidalgo County encourages the use of products made of recycled materials and shall give preference in purchasing to products made of recycled materials if the products meet applicable specifications as to quantity and quality. Hidalgo County will be the sole judge in determining product preference

application.

38. REFERENCES. Offeror must provide a total of four (4) references in each response to a solicitation requested by Hidalgo County. **One of the four references listed should be of a project that was canceled.** Offeror may provide this in form of Reference Letters from other individual(s)/entities or local government entities for whom the Offeror has provided similar services in the past twenty-four (24) months as demonstration of their prior experience, or if Offeror prefers, may utilize the Reference Form **Appendix “M”**. Letters or reference sheet must include the following information:

- Organization/Client Name/Government Entity (Include population of any local governmental entity – some procurements may require a specific population).
- Name of Contact Person
- Contact Telephone, Address and Email
- Name of Project
- Scope of Work
- Contract Period
- Budget Project Amount; Actual Project Amount
- Expected project timeframe; actual project timeframe
- Include contact information for one (1) client that services have been canceled, and a description of why the project was canceled.

39. SCANNED OR RE-TYPED RESPONSE. If in its response, Offeror either electronically scans, re-types, or in some way reproduces the County's published procurement packet, then in the event of any conflict between the terms and provisions of the County's published procurement packet, or any portion thereof, and the terms and provisions of the response made by the Offeror, the County's procurement packet **as published** shall control. Furthermore, if an alteration of any kind to the County's published procurement packet is only discovered after the contract is executed and is or is not being performed; the contract is subject to immediate cancellation.

Regardless of how an Offeror requested or received a copy of this procurement packet to prepare a response, **the response must be submitted in hard copy** according to the instructions contained within this procurement packet.

40. SEVERABILITY. If any section, subsection, paragraph, sentence, clause, phrase or word of these requirements or the specifications shall be held invalid, such holding shall not affect the remaining portions of these requirements and the specifications and it is hereby declared that such remaining portions would have been included in these requirements and the specifications as though the invalid portion had been omitted.

41. SILENCE OF SPECIFICATIONS. The apparent silence of specifications as to any detail, or the apparent omission from it of a detailed description concerning any point, shall be regarded as meaning that only the best commercial practice is to prevail and that only material and workmanship of the finest quality are to be used. All interpretations of specifications shall be made on the basis of this statement. The items furnished under this contract shall be new, unused of the latest product in production to commercial trade and shall be of the highest quality as to materials used and workmanship. Manufacturer furnishing these items shall be experienced in design and construction of such items and shall be an established supplier of the item proposed.

42. SUBCONTRACTING. Vendor may not subcontract services to another firm without prior written request detailing goods and/or services that are to be subcontracted, and approval of said written request by Hidalgo County Commissioners Court, or applicable governing body.

43. TAXES. Hidalgo County is exempt from all federal excise, state and local taxes unless, otherwise stated in this document. Hidalgo County claims exemption from all sales and/or use taxes under Texas Tax Code §151.309, as amended. Offerors are not to include tax in any cost figures (including in any supplemental project specific contracts applicable to pools). If it is determined that tax was included in the cost figure it will not be included in the tabulation of any supplemental project specific awards. Texas Limited Sales Tax Exemption Certificates will be furnished upon written request to the Hidalgo County Purchasing Department, and signed by the Agent,

or authorized Purchasing Department representative.

44. **TERM OF CONTRACTS.** If the contract is intended to cover a specific time period, the term will be specified in **Appendix A: Requirements/Specifications**. Awarded contract will be in effect until (a) the term expires, or (b) participation is terminated by County with thirty (30) days written notice prior to cancellation with or without cause. 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 the County with thirty (30) days written notice prior to cancellation with or without cause, unless otherwise stated in the executed agreement.
45. **TERMINATION.** Hidalgo County reserves the right to terminate the contract for default if Offeror breaches any of the terms therein, including warranties of Offeror or if the Offeror becomes insolvent or commits acts of bankruptcy. Such right of termination is in addition to and not in lieu of any other remedies which Hidalgo County may have in law or equity. Default may be construed as, but not limited to, failure to deliver the proper goods and/or services within the proper amount of time, and/or to properly perform any and all services required to Hidalgo County's satisfaction and/or to meet all other obligations and requirements. Hidalgo County may terminate the contract without cause upon thirty (30) days written notice, unless otherwise stated in the executed agreement.
46. **TERMINATION FOR HEALTH AND SAFETY VIOLATIONS.** Hidalgo County has the option to terminate this contract immediately without prior notice if Offeror fails to perform any of its obligations in this contract if the failure (a) created a potential threat to health or safety or (b) violated a law, ordinance, or regulation designed to protect health or safety.
47. **USAGE REPORTS.** Hidalgo County reserves the right to request, and receive at no additional cost during the yearly contract period, a usage report detailing the services furnished to date under an agreement resulting from this procurement packet. The reports must be furnished no later than five (5) business days after written request and itemize all purchases to date by Hidalgo County department, description of each service purchased, quantity of each service purchased, per unit cost and total amount of all services purchased.
48. **WAIVER OF SUBROGATION.** Offeror and Offeror's insurance carrier waive any and all rights whatsoever with regard to subrogation against Hidalgo County as an indirect party to any suit arising out of personal or property damages resulting from Offeror's performance under any award resulting from award from this procurement packet.
49. **WARRANTIES.** Offerors shall furnish all data pertinent to warranties or guarantees which may apply to items in the response to this procurement packet. Offeror may not limit or exclude any implied warranties. Further, Offeror warrants that product sold to the County shall conform to the standards established by the U.S. Department of Labor under the Occupational Safety and Health Act of 1970. In the event product does not conform to OSHA Standards, where applicable, Hidalgo County may return the product for correction or replacement at the Offeror's expense. If Offeror fails to make the appropriate correction within a reasonable time, Hidalgo County may correct at the Offeror's expense.
50. **CIVIL WORKS, CONSTRUCTION & PUBLIC WORKS PROJECTS.** Provisions of Tex. Govt. Code Ch. 2269 as amended by HB 2581 of the 87th Texas Legislature applicable to Civil Works and Construction Projects are hereby incorporated. Provisions of Texas Local Govt. Code Ch. 271, subchapter B applicable to competitive bidding on certain public works projects are hereby incorporated.

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LEGAL NOTICE DECLARATION

TO: Eduardo Belmarez, MBA, CPM, Purchasing Director
ATTN: Keila M. Gonzalez, Contract Specialist I
Hidalgo County Administration Building/Purchasing Department
2802 S. Business Hwy. 281
Edinburg, Texas 78539

RE: RFQ No. 22-0326-07-14-KMG

By providing a **Statement of Qualifications (“SOQ”)** to this solicitation, we acknowledge receipt of all of the pages of in this procurement packet. We understand that Hidalgo County reserves the right to reject any or all submissions, and further reserves the right to design the evaluation criteria to be used in selecting the lowest and best qualification.

We acknowledge that we have examined this procurement packet in its entirety, and are familiar with the conditions to be met. In accordance with the Specifications, and subject to all laws and regulations of the United States, State of Texas, and local laws, we propose and commit to furnish all labor, equipment, material, software, and services as set forth in the documents hereinbefore mentioned. Any purchase order or contract resulting from this process shall be considered null and void if the successful respondent fails to comply with any federal, state or local laws.

We acknowledge that we are providing the required certifications, attestations, verifications and/or acknowledgments as referenced within this procurement packet. We further acknowledge that any and all specifications, provisions, and attachments of this **SOQ** are incorporated into and made a part of any resulting agreement.

We agree that this **SOQ** shall be good, and may not be withdrawn for a period of ninety (90) calendar days after the scheduled bid opening time and date for receiving the requested solicitation, as contained in the Specifications.

Lastly, we understand that any questions regarding compliance should be directed to our firm’s legal counsel. We acknowledge that the individual authorized to bind the company is signing this Acknowledgement Form. By signing this Acknowledgement Form we understand we are providing written verification and certification of the aforementioned, and the County cannot execute a contract for goods or services without this declaration.

Respectfully submitted,

Firm: _____

Address: _____

Printed Name: _____

Title: _____

Signature: _____ Date: _____



Appendix A

REQUIREMENTS/SPECIFICATIONS

REQUIREMENTS/SCOPE OF SERVICE

Hidalgo County ("County") is soliciting Statements of Qualification ("SOQ") from qualified law firms to provide professional bond counsel services to the County in connection with the issuance, sale, and delivery of bonds, and/or other forms of debt financing. The County anticipates the need for legal services in connection with the issuance of bonds at any time and from time to time, during the term of the contract. Bond Counsel is expected to respond to such requests in connection with the issuance of bonds and with ongoing compliance with any/all trust indentures and other documents and agreements integral to the issuance of such bonds.

This Request for Qualifications ("RFQ") is issued in accordance with Section 2254 of the Texas Government Code (Professional Services Procurement Act) and Title 40 Code of Federal Regulations, Part 31 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments).

First, the County will evaluate, rank, and score the Respondents, based on the SOQ, which shall demonstrate competence, qualifications, and experience in the provision of Bond Counsel services. All SOQs will be examined by an **Evaluation Committee** designated by the Hidalgo County Commissioners Court.

After the selection of a qualified Respondent, a contract for services shall be negotiated in accordance with the Professional Services Procurement Act, Tex. Govt. Code Ann. 2254.001, et seq. and submitted to the Commissioners Court for final approval.

*NOTICE: If the Bond Counsel services proposed contract is one which the payment of the fee for the services is contingent in whole or in part on the outcome of the matter for which the services were obtained the County shall comply with the requirements set for in Subchapter C, Chapter 2254 of the Texas Government Code.

No award can be made until approved by Hidalgo County Commissioners Court. This RFQ does not obligate Hidalgo County to the eventual purchase of any product and/or Bond Counsel service described, implied or which may be proposed. Progress toward this end is solely at the discretion of Hidalgo County and may be terminated at any time prior to execution of an agreement.

The required contents and limitations for the preparation of the SOQ are described in this section. Failure to provide the requested information or adhere to any County limitations may result in disqualification of the submitted SOQ.

Section I: SCOPE OF SERVICES

Hidalgo County ("County") is seeking legal services from an **experienced** and qualified firm to serve as Bond Counsel. The firm must possess **demonstrated ability, knowledge and expertise** to provide Bond Services to the County. It is important that the firm have **sufficient depth of talent and experience in bond law, tax law local government law, the trial and appeal of bond validation actions, and the issuance of bonds and notes** and that it be in a position to **respond quickly and efficiently**.

The County reserves the right to accept or reject any or Statement of Qualifications for any reason it finds to be in the interest of the County.

The Respondent will be required to perform professional legal services in connection with public entity financing programs, as well as providing on-going service after the successful delivery of a bond issuance.

Among other things, Respondent will be required to provide traditional legal services and perform the duties normally expected of such firms, including but not limited to the services described below:

- A) Respondent shall render a legal opinion with respect to authorization and valid issuance of debt obligations including whether the interest paid on the debt is tax exempt under existing federal law.

APPENDIX "A"

- B) Respondent shall render a legal opinion pertaining to investment earning and any amounts required to be rebated as excess arbitrage earnings, if any, and any other written opinions of counsel which may be required under the terms of the Bond Resolution or under the Internal Revenue Code, as amended.
- C) Respondent shall render legal opinions that: (a) The bonds will be binding obligations of agency and validity issuer under Texas law; and (b) The interest on the bonds is excludable from gross income tax under existing federal law, when applicable.
- D) Respondent shall prepare all notices, including those of public meetings and resolutions regarding reimbursement bonds and published notices, orders (including those governing calling bond elections), and other legal proceedings necessary to authorize issuance of each series of the Obligations and all other instruments which comprise the transcript of legal proceedings of the issuer pertaining to the authorization, issuance and sale of each such series. Bond Counsel shall assist the County in the expeditious handling thereof.
- E) Respondent shall attend all meetings called or arranged by or on behalf of the Issuer or Issuer personnel (or their representatives) who are responsible for the issuance, sale and delivery of the Obligations, to the extent required or requested by such persons, to discuss the legal aspects of the Obligations, including, but not limited to the sizing, timing or sale of each series of the Obligations.
- F) Respondent shall consult with Issuer officials and staff and the Issuer's financial advisors and independent auditors to review information to be included in the offering documents for each series of the Obligations.
- G) Respondent shall prepare and submit, as required by law, transcripts of legal proceedings pertaining to the issuance of each series of the Obligations and attain approval of such from the Attorney General of Texas.
- H) Respondent shall advise and assist the County in complying with, and preparing continuing disclosure of financial information and operating data pursuant to all Security and Exchange Commission rules, specifically Rule 15c2-12.
- I) Respondent shall assist in the preparation of specified sections of the Preliminary Official Statement and the Final Official Statement, and be responsible for the proper scope, legal effectiveness and compliance with applicable regulatory requirements of the entirety of both documents, subject to the understanding that Bond Counsel will not be expected to independently verify data contained in the Official Statements that are generated by the client or the third parties.
- J) Respondent shall prepare all necessary legal documents in connection with authorization, sale, issuance and delivery of bonds and other obligations.
- K) Respondent shall, when applicable, supervise the preparation, execution, and delivery of bonds to the purchasers.
- L) Respondent shall provide advice, as requested, on the proper use and administration of bond proceeds under applicable laws and the indenture, particularly arbitrage tracking and rebate requirements. Bond Counsel shall, when requested, determine whether the County may utilize debt obligations to fund certain individual projects given the nature of the project.
- M) Respondent shall provide assistance on all other matters necessary or incidental to the issuance of bonds.
- N) Respondent shall perform all usual and necessary legal services with reference to the authorization, sale, and delivery of any debt issuance and bond refunding that Hidalgo County may require, including but not limited to: resolutions, agreements, and minute orders, as needed.
- O) Respondent shall represent Hidalgo County in the preparation of any bond refunding and purchase contracts and insuring that all participants, including underwriters and investment banking firms, whether retained or

APPENDIX "A"

contracted by the County. Bond Counsel shall disclose all conflicts of interest to and with the County and any other parties involved in the bonds.

- P) Respondent shall provide tax opinion on debt issues and bond refunding.
- Q) Respondent shall prepare any Internal Revenue Service filings required by federal tax law. Bond Counsel shall assist in any IRS inquiry and action as needed.
- R) Respondent shall render other written opinions of Bond Counsel pertaining to investment earnings and any amounts required to be related to the United States as excess arbitrage earnings, if any, and any other written opinion of counsel which may be required under the terms of the Bond Resolutions or under the Internal Revenue Code, as amended.
- S) Respondent shall assist with post-issuance matters, such as providing direction for compliant private use activity, including aiding in annual calculation.
- T) Respondent shall provide analysis and resolution of tax issues associated with financing plans.
- U) Respondent shall provide a complete bond transcript in paper and electronic format at the conclusion of each financing. Provide advice and counsel continuing compliance with securities, tax, and other applicable law pertaining to bonds.
- V) Respondent shall provide advice, assistance, opinions, and/or supervision to the County on all other matters necessary or incidental to the refunding and issuance of the bonds.
- W) Respondent shall make presentations to Commissioners Court and attend meetings, as requested.

Section II: REQUIREMENTS

Respondents shall meet the following requirements:

- A) Respondent shall be a licensed attorney in good standing in the State of Texas.
- B) Respondent shall comply with the Code of Professional Responsibility of the State Bar of Texas and other applicable law regarding conduct, including conflict of interest.
- C) Respondent shall have adequate financial resources, or the ability to obtain such resources as required during the performance of any resulting contract.
- D) Respondent shall have a minimum of 10 years experience with various bond-debt instruments including tax-exempt and taxable bonds, notes, commercial paper, variable rate Obligations, swaps, leases, contract revenue, and conduit financing.
- E) Respondent shall have a minimum of 10 years experience and expertise in addressing federal tax issues related to tax-exempt and taxable debt Obligation.
- F) Respondent shall have a minimum of 10 years experience with rating agencies and detailed familiarity local government credit rating process.
- G) Respondent shall have knowledge of rating criteria used by major credit rating agencies and experience with obtaining credit supports and bond insurance.
- H) Respondent shall be able to comply with the required performance schedule, taking into consideration all existing business commitments.
- I) Respondent shall have a satisfactory record of performance, integrity and ethics.

APPENDIX "A"

- J) Respondent shall have necessary attorneys and staff support capability to perform any resulting contract.
- K) Respondent shall be qualified as an established firm, regularly engaged in the type of business necessary to fulfill the contract requirements.
- L) Respondent shall have a minimum of 10 years experience with the Texas Bond Review Board and Office of the Attorney General relation to public financing.
- M) Respondent shall certify that the firm is not delinquent in any tax owed to the state of Texas under Chapter 171, Tax Code; signing and submitting the qualifications is certifying to such non-delinquency.
- N) Respondent shall comply with all federal, state, and local laws governing or covering this type of service.

Section III: UNDERSTANDING OF THE PROJECT (limited to 3 pages)

This section should demonstrate the respondent's understanding of the County needs, the work required, and identify any local issues or concerns to demonstrate the firm's familiarity with Bond Counsel Services solicited **specifically** for the County of Hidalgo, Texas.

Section IV: RESPONDENT INFORMATION

- a. **Respondent History** - This section shall include Respondent's qualifying history, the firm's background and identify the principal officers. Include an organization chart, and a description of Bond Counsel team organization experience and names of experienced team members. State the firm's commitment, competence, experience, and ability to commence quality services immediately after successfully negotiating a contract for services. Include a statement regarding Respondent's Affirmative Action Program.
- b. **Personnel and Staffing** - This section shall identify all Respondent's firm members on the organizational chart, and a summary paragraph of the qualifying, competent Bond Counsel services to be performed by each proposed staff member. A one (1) page Curriculum Vitae ("CV") shall be provided for each proposed staff member that highlights the experience, qualifications, and competence relevant to the Bond Counsel RFQ's outlined in **Appendix "A", sections I-VI**. CV's shall be accompanied by a one (1) page, general list of projects with brief summaries of services provided within the last 12 consecutive months, and identify their role in each. This section shall outline the firm's contingency plan for serving as Bond Counsel in the event that one or more key personnel are not available for any reason during the period of performance.
- c. **Proof of Licenses and Certifications** - This section will contain copies of any and all current state and or federal certifications and licenses with applicable seals, and any other applicable licenses and certifications as required by the State of Texas.

Section V: RESPONDENT EXPERIENCE AND QUALIFICATIONS

The Respondent shall identify the services currently being provided to government entities in Texas (preferably similarly situated counties) and other information relevant to the provision of Bond Counsel Services. The Respondent shall provide the following information:

- A) Respondent shall provide a brief transmittal letter summarizing qualifying key points addressed in **Sections I-VI**. Letter shall be signed by an authorized representative who is responsible for committing the firm's resources.
- B) Respondent shall list the experience, competence, and qualifications of each individual assigned to the account of Bond Counsel program and placement of debt instruments; List the work performed, the dollar amount of the debt issue or other financing, as well as, the names, addresses, and telephone numbers of contact references, for verification.

APPENDIX "A"

- C) Respondent shall provide a list of additional services, if any- Describe other services, expertise, qualifications, and competences of the firm, in acting as Bond Counsel, which you deem advantageous to the County and that will further enhance the services through a combination of cost saving measures, financial enhancements, specific offerings, etc.
- D) Respondent shall disclose any conflicts of interest that your firm might experience in serving as Bond Counsel to the County.

Section VI: PROPOSAL

- A) Respondent shall attach a copy of **Bond Counsel contract proposed by your firm without fee information.**
- B) Respondent shall provide a meaningful description of how your firm would propose to provide the services required in the Scope of Services section in this Request for Qualification.

Section VII: PRICING INFORMATION

PARTICIPATING FIRMS ARE NOT TO PROVIDE A FEE PROPOSAL WITH THIS RFQ SUBMITTAL AND/OR IN ITS SOQ.



Appendix B

PROFESSIONAL SERVICES PROCUREMENT UNDER TX LGC, CH 2254: EVALUATION & NEGOTIATION

EVALUATION PROCEDURE

The Respondent's **SOQ** will be evaluated based on the criteria presented below. These criteria will be scored on the scale shown on the enclosed "**Evaluation Form.**"

Submission of a **SOQ** implies the Respondent's acceptance of the evaluation criteria and Respondent's recognition that subjective judgments must be made by the **Evaluation Committee.**

EVALUATION PROCESS

First, the County will evaluate, rank, and score the Respondents, based on the **SOQ**, which shall demonstrate competence, qualifications, and experience in the provision of Bond Counsel services. All **SOQ** will be examined by an **Evaluation Committee** designated by the Hidalgo County Commissioners Court.

Statements of Qualifications ("**SOQ**") that do not conform to the instructions or which do not address all the services as specified may be eliminated from consideration; however, Hidalgo County reserves the right to accept such a **SOQ** if it is determined to be in the best interest of Hidalgo County.

While Hidalgo County appreciates a brief, straightforward, concise reply, the proposer must fully understand that the evaluation is based on the totality of information provided. Accuracy and completeness are essential. Omissions, ambiguous and equivocal statements may be construed against the Respondent. The **SOQ** may be incorporated into any contract which results from this procurement packet, and respondents are cautioned not to make claims or statements it is not prepared to commit to contractually. Failure of the Respondent to meet such claims will result in a requirement that the respondent provide resources necessary to meet submitted claims, without extending an additional cost to Hidalgo County.

Hidalgo County Purchasing Department may initiate discussions with selected Respondents; however, Respondents may not initiate discussions. Respondents shall not contact any Hidalgo County personnel during the procurement process without the express permission from the Hidalgo County Purchasing Department. Hidalgo County Purchasing Department may disqualify any Respondent who has made visits and/or contacted Hidalgo County personnel or distributed any literature without authorization from Hidalgo County Purchasing Department.

All correspondence relating to this procurement from the advertisement to the award shall be sent to Hidalgo County Purchasing Department. Hidalgo County Purchasing Department shall coordinate all presentations and/or meetings between Hidalgo County and the Respondent relating to this solicitation.

Selected Respondents will be expected to make a presentation and demonstration to the **Evaluation Committee.** In addition to a presentation, Respondents will be expected to make a presentation and demonstration to the Hidalgo County Commissioners Court. Respondent's **SOQ**, presentations and evaluations may develop into negotiating sessions with Respondent(s) as selected by the **Evaluation Committee** and approved by Hidalgo County Commissioners Court.

APPENDIX "B"

SAMPLE RFQ EVALUATION FORM:

	Respondent No.1	Respondent No.2	Respondent No.3	Respondent No.4	Respondent No.5	Respondent No.6
Evaluator No.1						
Evaluator No.2						
Evaluator No.2						
Evaluator No.4						
Evaluator No.5						
Evaluator No.6						
Total Points						
Average						1

This sample grid is subject to change based on the number of evaluators and the number of respondents.

Each evaluator will rank Respondents according with 1 being the highest. Each column will be totaled and averaged. The Respondent with the lowest number will be the highest ranked and scored. Rankings will be provided to Commissioners Court for discussion, consideration, and approval to engage in negotiations with an evaluated Respondent.

Evaluations by the Evaluation Committee shall not obligate Hidalgo County to the eventual purchase of any Bond Counsel service described, implied or which may be proposed. Progress toward this end is solely at the discretion of Hidalgo County and may be terminated at any time prior to execution of an agreement.

¹ Sample Grid – This sample grid is subject to change based on the number of evaluators and the number of respondents.

APPENDIX "B"

NEGOTIATION PROCESS

The services of the most highly, well-qualified provider of Bond Counsel services, based on the Respondent's Qualifications, shall be negotiated in accordance with the Professional Services Procurement Act, Tex. Govt. Code Ann. 2254.001, et seq.. Hidalgo County expects to conduct negotiations with vendor's representatives authorized to contractually obligate the respondent with an offer.

If Respondent is unable to agree to contract terms and conditions, Hidalgo County reserves the right to terminate contract negotiations with that respondent and initiate negotiations with the next qualified Respondent.

After such negotiation of terms, the price for the most highly, well- qualified provider of Bond Counsel services shall be presented to Commissioners' Court for consideration and approval of award of the contract found by the Commissioners Court to be satisfactory, fair, and reasonable. **The Hidalgo County Commissioners Court reserves the right to accept a waiver if a Respondent does not meet all competencies, qualifications, and/or experience.**

*NOTICE: If the Bond Counsel services proposed contract is one which the payment of the fee for the services is contingent in whole or in part on the outcome of the matter for which the services were obtained the County shall comply with the requirements set for in Subchapter C, Chapter 2254 of the Texas Government Code.²

No award can be made until approved by Hidalgo County Commissioners Court. This RFQ, the Respondent's presentation, nor an evaluation by the Evaluation Committee shall not obligate Hidalgo County to the eventual purchase of any Bond Counsel service described, implied or which may be proposed. Progress toward this end is solely at the discretion of Hidalgo County and may be terminated at any time prior to execution of an agreement.

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² The Texas Attorney General has noted that a contingency fee contract entered into by a county in connection with the issuance of securities under section 12.027 of the Texas Government Code, is not subject to an Attorney General review and/or approval; and counties have exclusive authority to determine the basis for compensation of a Bond Counsel provider which services are necessary to the County's issuance of public securities and/or administration of County affairs that pertain to the issuance of public securities.



Appendix C

INSURANCE REQUIREMENTS

EXHIBIT C
Insurance Requirements
Professional Services
(i.e...Engineers, Architects, Appraisers & Surveyors)

The proposer awarded the contract shall furnish proof of insurance, which will also include any subcontractor that is subcontracted by the proposer 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:

1. Professional liability insurance policy with limits of at least One Million Dollars (\$1,000,000) per occurrence, or limited to claims made, include at least a five (5) year extended reporting period.
2. A Five Hundred Thousand Dollars (\$500,000.00) Comprehensive General Liability insurance policy providing additional coverage to all underlying liabilities of County.
3. Automobile liability insurance policy 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 Dollars (\$500,000.00) arising out of the services provided to County hereunder.
4. Uninsured/Underinsured motorist coverage in an amount equal to the bodily injury limits set forth immediately above;
5. 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.

Proposer 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. Proposer 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 proposer.
- c. **Hidalgo County will only accept certificates of insurance on an Acord form (as attached hereto).**
- d. For each policy, except Workers' Compensation, proposer 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 proposer.
- i. Insurance policies shall be obtained at proposer's sole expense. County does not maintain and will not obtain insurance of any type to protect proposer against loss, damage or injury that may in any way result from proposer's 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 proposer.
- k. Proposer 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. Proposer shall make any other insurance documentation available to County upon request.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MMDDYYYY)

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	CONTACT NAME:	
	PHONE (A/C, No, Ext):	FAX (A/C, No):
INSURED	E-MAIL:	
	ADDRESS:	
	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A :	
	INSURER B :	
	INSURER C :	
	INSURER D :	
	INSURER E :	
	INSURER F :	

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT 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 THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXPI (MM/DD/YYYY)	LIMITS
	GENERAL LIABILITY						EACH OCCURRENCE \$
	COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence) \$
	CLAIMS-MADE OCCUR						MED EXP (Any one person) \$
							PERSONAL & ADV INJURY \$
							GENERAL AGGREGATE \$
	GENL AGGREGATE LIMIT APPLIES PER:						PRODUCTS - COMPIOP AGG \$
	POLICY PRG-JECT LOC						\$
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident) \$
	ANY AUTO						BODILY INJURY (Per person) \$
	ALL OWNED AUTOS						BODILY INJURY (Per accident) \$
	HIRED AUTOS						PROPERTY DAMAGE (Per accident) \$
	SCHEDULED AUTOS						\$
	NON-OWNED AUTOS						\$
	UMBRELLA LIAB						EACH OCCURRENCE \$
	EXCESS LIAB						AGGREGATE \$
	DED RETENTION \$						\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						WC STATUTORY LIMITS OTHER \$
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)						E.L. EACH ACCIDENT \$
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE \$
							E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

CERTIFICATE HOLDER	CANCELLATION
HIDALGO COUNTY ATTN: PURCHASING DEPARTMENT 2812 S, HIGHWAY BUS. 281 EDINBURG, TEXAS 78539	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE

INSURANCE REQUIREMENT ACKNOWLEDGEMENT

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 award of the project by the Hidalgo County Commissioners' Court;
- will acquire additional amount needed to meet the County's requirements within 10 working days after notification from Purchasing Department of award of the project by the Hidalgo County Commissioners' Court; currently carry the following:

Professional Liability (Errors & Omissions): \$ _____
Automobile Liability: \$ _____ General Liability: \$ _____

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

Authorized Representative

Date

Notice to Proposer:

A certificate of insurance for the required insurance limits shall be provided to the Purchasing Department in order to qualify for award of the project 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 award of the project to be rescinded and then re-awarded to next qualified vendor. 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 BE ACCOMPANY YOUR RESPONSE

PROJECT REQUIREMENTS ACKNOWLEDGMENT

This is to certify that I, _____, possess all of the **APPLICABLE**:

1. Licenses: _____

2. Bonds: _____

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 project, 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, certificates, permits, etc. which are required must be presented as part of the bid packet in order to expedite the bid evaluation process. Failure to provide said documentation will result in the disqualification of your bid or response.**

Authorized Signature

Date

Company

Address

City, State, Zip



Appendix D

CONFLICT OF INTEREST QUESTIONNAIRE (CIQ)

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.



Appendix E

VENDOR ENROLLMENT SOLUTION AND HUB DECLARATION

VENDOR ENROLLMENT SOLUTION

The Vendor Registration Form has been automated and will only be accepted through online submission. The Vendor Registration Form can be found on the Hidalgo County website: <https://www.hidalgocounty.us>, Home > Departments > Purchasing > Potential Vendors, or by using the link: <https://www.hidalgocounty.us/2912/Potential-Vendors-ConsiderMe>.



ConsiderMe

A Vendor Enrollment Solution



Register → Get Listed → Be Considered

Upon submission, you will receive an automatic confirmation email response advising your form has been successfully submitted. All submissions are reviewed by the Purchasing Department in the order they are received. Upon review and verification, approved vendors will be placed on our Potential Vendors List. Any incomplete submissions will be rejected and returned to the vendor to correct.

If you have any questions regarding the Vendor Registration Form please call the Purchasing Department at (956) 318-2626 or email us at vendor.application@co.hidalgo.tx.us.

For new Vendors:

As part of your procurement packet response, a copy of the confirmation email received is required.

For Current Vendors:

If your Company is a current active Vendor doing business with Hidalgo County, please submit this page and provide your Vendor Number below:

Vendor No.: _____

REMAINDER OF THIS PAGE LEFT INTENTIONALLY BLANK.

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

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:

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:

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:



Appendix F

CERTIFICATION REGARDING 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.



Appendix G

TITLE VI APPENDICES "A" - "E"

APPENDIX A THE TITLE VI CONTRACTOR ASSURANCES

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 will comply with the Regulations relative to nondiscrimination in federally assisted programs of the United States Department of Transportation 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, national origin, sex, age, disability, income or Limited English Proficiency 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 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 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 Acts and the Regulations relative to Non-discrimination on the grounds of race, color, national origin, sex, age, or disability.
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 funding agency (FHWA or FTA) 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 this information, the contractor shall so certify to the Recipient or the Federal Funding Agency, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Non-compliance:** In the event of the contractor's non-compliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the Federal Funding Agency may determine to be appropriate, including, but not limited to:
 - a. withholding contract payments to the contractor under the contract until the contractor complies; and/or
 - b. cancelling, terminating, or suspending a 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 Funding Agency 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 (Name of Appropriate Legislative Authority), the Regulations for the Administration of (Naming of Appropriate Program), 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, Non-discrimination 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 A 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 non-discrimination 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]. *

(*Reverter 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, permittee, 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 Non-discrimination 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 Non-discrimination 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. *

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary 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 List of discrimination Acts And Authorities.

- 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.*

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

APPENDIX E

TITLE VI LIST OF PERTINENT NONDISCRIMINATION ACTS AND AUTHORITIES

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 non-discrimination statutes and authorities; including but not limited to:

Pertinent Nondiscrimination Authorities

- Title VI of the Civil Rights Act of 1964 (42 USC § 2000d *et seq.*, 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination in Federally-assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 *et seq.*), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended (42 USC § 6101 *et seq.*) (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982 (49 USC § 471, Section 47123), 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 of 1990, 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 USC §§ 12131 – 12189) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration’s Nondiscrimination statute (49 USC § 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 nondiscrimination 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 USC 1681 *et seq.*).



Appendix H

REQUIRED CONTRACT CLAUSES FOR CONTRACTS UNDER FEDERAL AWARD

2 C.F.R. § 200.327 & 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 §§200.317-200.327 of the Uniform Guidance contain provisions applicable to procurements made with federal grant funding. [Except as otherwise provided, updated Post Federal Award Requirements (i.e.: 2 CFR §§200.317-200.327) apply to declarations and awards issued on or after November 12, 2020].

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. §200.327). 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)).

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 agency.

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 subrecipient 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. See 2 C.F.R. Part 200, Appendix II, ¶ D.

- 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.

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. See 2 C.F.R. Part 200, Appendix II, ¶ E.

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. 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 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. § 200.323; *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.

(2) 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>.

(3) The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.”

11. Prohibition on Contracting for Covered Telecommunications Equipment or Services – 2 CFR § 200.216 (FEMA Interim Policy #405-143-1 effective August 13, 2020).

- a. Applicability: This requirement applies to all Federal grant and cooperative agreement programs and/or as provided below, and is effective August 13, 2020.

- b. Standard. A non-Federal entity is prohibited against using federal funds to purchase telecommunications and video surveillance equipment and services (such as but not limited to mobile phones, land lines, internet, video surveillance, and cloud servers) from certain companies/entities in covered foreign countries for national security reasons. This regulation is being incorporated into federal grants and contracts received by the County through 2 CFR 200.216 and/or Federal Acquisition Regulations (FAR) clause 52.204-25; as well as guidance provided through Federal Emergency Management Agency (FEMA) Policy #405-143-1. See 2 C.F.R. Part 200, Appendix II, ¶ K

Currently, applicable federal provisions provide that Covered Foreign country means the People’s Republic of China and covered telecommunications equipment or services means –

- i. Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation, (or any subsidiary or affiliate of such entities);
- ii. For the purpose of public safety, security of Government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities);
- iii. Telecommunications or video surveillance services provided by such entities or using such equipment; or
- iv. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

The definition of “Affiliate” can be found in FAR 2.101. Listing of subsidiaries and affiliates can be found in Supplement Number 4 to 15 CFR Part 744.

- c. Statement. Federal awards recipients and subrecipients, as well as their contractors and subcontractors, include the following required contract clause in applicable new, extended, or renewed contracts and subcontracts as per the provisions discussed above.

PROHIBITION ON CONTRACTING FOR COVERED TELECOMMUNICATIONS EQUIPMENT OR SERVICES

- (a) **Definitions.** As used in this clause, the terms backhaul; covered foreign country; covered telecommunications equipment or services; interconnection arrangements; roaming; substantial or essential component; and telecommunications equipment or services have the meaning as defined in FEMA Policy, #405-143-1 Prohibitions on Expending FEMA Award Funds for Covered Telecommunications Equipment or Services As used in this clause—
- (b) **Prohibitions.**
 - (1) Section 889(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, and 2 C.F.R. § 200.216 prohibit the head of an executive agency on or after Aug.13, 2020, from obligating or expending grant, cooperative agreement, loan, or loan guarantee funds on certain telecommunications products or from certain entities for national security reasons.
 - (2) Unless an exception in paragraph (c) of this clause applies, the contractor and its subcontractors may not use grant, cooperative agreement, loan, or loan guarantee funds from the Federal Emergency Management Agency to:

- (i) Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
 - (ii) Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
 - (iii) Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system; or
 - (iv) Provide, as part of its performance of this contract, subcontract, or other contractual instrument, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.
- (c) Exceptions.
- (1) This clause does not prohibit contractors from providing—
 - a. A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or
 - b. Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.
 - (2) By necessary implication and regulation, the prohibitions also do not apply to:
 - a. Covered telecommunications equipment or services that:
 - i. Are not used as a substantial or essential component of any system; and
 - ii. Are not used as critical technology of any system.
 - b. Other telecommunications equipment or services that are not considered covered telecommunications equipment or services.
- (d) Reporting requirement.
- (1) In the event the contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the contractor is notified of such by a subcontractor at any tier or by any other source, the contractor shall report the information in paragraph (d)(2) of this clause to the recipient or subrecipient, unless elsewhere in this contract are established procedures for reporting the information.
 - (2) The Contractor shall report the following information pursuant to paragraph (d)(1) of this clause:
 - (i) Within one business day from the date of such identification or notification: The contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.

- (ii) Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: Any further available information about mitigation actions undertaken or recommended. In addition, the contractor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.
- (e) Subcontracts. The Contractor shall insert the substance of this clause, including this paragraph (e), in all subcontracts and other contractual instruments.

12. **Domestic Preferences for Procurements**

- a. **Applicability**: This requirement of this section must be included in all subawards including all contracts and purchase orders for work or products under Federal award applies to all contracts and purchase orders for work or products using federal funds.
- b. **Standard**. As appropriate, and to the extent consistent with law, Non Federal Entities should, to the greatest extent practicable under a federal award, provide a preference for the purchase, acquisition, or use of goods, products or materials produced in the United States. This includes, but is not limited to, iron, aluminum, steel, cement, and other manufactured products. See 2 C.F.R. Part 200.322 and 2 C.F.R. Part 200, Appendix II, ¶ L
- c. **Statement**. The following provides the required Domestic Preferences for Procurements contracts clause that is incorporated herein by reference.

“Domestic Preference for Procurements

As appropriate, and to the extent consistent with law, the contractor should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. This includes, but is not limited to iron, aluminum, steel, cement, and other manufactured products.

For purposes of this clause:

- *Produced in the United States* means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
- *Manufactured products* mean items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.”

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.

1. **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.”

2. **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.”

3. **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.”

4. **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.”

5. **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.”

6. **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.”

7. **FEMA Contract requirement regarding Prohibition on Contracting for Covered Telecommunications Equipment or Services – 2 CFR § 200.216 (FEMA Interim Policy #405-143-1 effective August 13, 2020).**

FEMA recipients and subrecipients and their contractors and subcontractors are required per 2 C.F.R. Part 200, Appendix II ¶ K to include a contract provision in all FEMA-funded contracts and subcontracts, including any purchase orders. To satisfy this requirement, the contract provision found in Number 11 above is incorporated by reference by the County of Hidalgo in all new, extended, or renewed contracts and subcontracts. Applicable County contractors and subcontractors shall also comply with the applicable law and requirements. (See Number 11 above).

8. **FEMA Contract requirement regarding Domestic Preferences for Procurements**

For purchases in support of FEMA declarations and awards issued on or after November 12, 2020, all FEMA recipients and subrecipients are required per 2 C.F.R. Part 200, Appendix II ¶ L to include in all contracts and purchase orders for work or products the contract provision included in number 12 above encouraging domestic preference for procurements.

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: _____



Appendix J

RESPONDENT'S AFFIDAVIT

**EXHIBIT J
PROPOSER'S AFFIDAVIT**

**PROPOSER'S AFFIDAVIT OF NON-COLLUSION, NON-CONFLICT OF INTEREST, AND
ANTI-LOBBYING**

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____



Appendix L

DEFICIENCIES AND DEVIATIONS FORM



Appendix M

REFERENCE FORM

REFERENCE FORM

Respondent's involvement with reference checks is not permitted. Only Hidalgo County Purchasing Department or authorized designees will conduct reference checks. Any deviation to this may result in rejection of your response.

Reference One

Client's Name: _____

Type of Organization: _____

Address: _____

Contact Person: _____ Title: _____

Telephone: _____ E-mail: _____

Project Information

Name of Project: _____

Scope of Work: _____

Contract Period: From _____ to _____

Cost: Projected \$: _____ Actual \$: _____

Timeframe (Include Unit Measure) Projected _____ Actual _____

Status as of _____ (Circle One) Complete In Progress Canceled
Date

Reference Two

Client's Name: _____

Type of Organization: _____

Address: _____

Contact Person: _____ Title: _____

Telephone: _____ E-mail: _____

Project Information

Name of Project: _____

Scope of Work: _____

Contract Period: From _____ to _____

Cost: Projected \$: _____ Actual \$: _____

Timeframe (Include Unit Measure) Projected _____ Actual _____

Status as of _____ (Circle One) Complete In Progress Canceled
Date

Reference Three

Client's Name: _____

Type of Organization: _____

Address: _____

Contact Person: _____ Title: _____

Telephone: _____ E-mail: _____

Project Information

Name of Project: _____

Scope of Work: _____

Contract Period: From _____ to _____

Cost: Projected \$: _____ Actual \$: _____

Timeframe (Include Unit Measure) Projected _____ Actual _____

Status as of _____ (Circle One) Complete In Progress Canceled
Date

Reference Four

Client's Name: _____

Type of Organization: _____

Address: _____

Contact Person: _____ Title: _____

Telephone: _____ E-mail: _____

Project Information

Name of Project: _____

Scope of Work: _____

Contract Period: From _____ to _____

Cost: Projected \$: _____ Actual \$: _____

Timeframe (Include Unit Measure) Projected _____ Actual _____

Status as of _____ (Circle One) Complete In Progress Canceled
Date

C-22-0326-10-04 Bond Counsel Services

Final Audit Report

















2022-10-11

Created:	2022-10-06
By:	Keila Gonzalez (keila.gonzalez@co.hidalgo.tx.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAAmtwZ2VAkasMYVqlpaq0CVRnJ3pRwix7g

"C-22-0326-10-04 Bond Counsel Services" History

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-  Document emailed to Monica Salinas (monica.salinas@co.hidalgo.tx.us) for approval
2022-10-06 - 6:41:09 PM GMT
-  Keila Gonzalez (keila.gonzalez@co.hidalgo.tx.us) added alternate approver margaret.mungia@co.hidalgo.tx.us. The original approver Monica Salinas (monica.salinas@co.hidalgo.tx.us) can still approve.
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-  Email viewed by margaret.mungia@co.hidalgo.tx.us
2022-10-07 - 8:59:25 PM GMT
-  Signer margaret.mungia@co.hidalgo.tx.us entered name at signing as Margaret Mungia
2022-10-07 - 8:59:55 PM GMT
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-  Signer amanda.austin@da.co.hidalgo.tx.us entered name at signing as Amanda Diane Austin
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-  Document approved by Carolyn Thornton (carolyn.thornton@co.hidalgo.tx.us)
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