

THE STATE OF TEXAS           §  
  §  
COUNTY OF HIDALGO         §

**PROFESSIONAL SURVEYING SERVICES AGREEMENT**  
**C-24-0285-09-17**

**THIS AGREEMENT (“Agreement”)** is made and entered on this **17th** day of **September, 2024**, by and between **HIDALGO COUNTY, TEXAS**, acting herein by and through the **Commissioners Court**, (hereinafter called the “**County**”), and **SAMES, INC.**, (herein after called the “**Surveyor**” or “**Professional Service Provider**”).

*On or about March 10, 2021, the Federal Government passed the American Rescue Plan Act (“ARPA”), including the Coronavirus State and Local Fiscal Recovery Fund (the “SLFRF”) which provides for direct payments to qualifying units of local governments navigating the impact of the COVID-19 outbreak. Pursuant to the U.S. Department of the Treasury’s guidance, the funds may be used for certain eligible purposes to respond to the pandemic and its economic effects and to replace revenue lost due to the public health emergency, preventing cuts to government services. The guidance goes on to provide specific eligible uses for these funds. The services made the basis of this Agreement are being procured for one of these eligible purposes.*

*As such, this Agreement is subject to the requirements applicable to federal awards as provided in 2 CFR 200 and the required contract provisions for contracts subject to federal award found in Appendix II to 2 CFR 200 are applicable to this Agreement and were included as part of the initial procurement packet. Additionally, the ARPA required contract provisions found in the attached **ARPA Addendum** are applicable to this Agreement. All referenced required contract provisions are incorporated herein and made part of this agreement for all purposes, and Parties agree to abide by the same.*

**WITNESSETH:**

**WHEREAS**, the **County** desires to contract with the **Surveyor** to provide “Project Specific” professional surveying services for: “[**ARPA-24-115-356**] **Surveying Services - Remote Operation Centers**” located within **Hidalgo County** (“**Services**”);

**WHEREAS**, the **County** has determined that the services of a professional surveyor company are necessary to carry out the required **Services**;

**WHEREAS**, pursuant to Texas Government Code Chapter 2254.002, (the “Texas Professional Services Procurement Act”), the **County** requested Statements of Qualifications (SOQ’s) from professional surveyors to establish a pool (effective from March 26<sup>th</sup>, 2024 to March 25<sup>th</sup>, 2029) of qualified professional surveyors to assist the **County** by providing professional surveying services. A copy of the Request for Qualifications (RFQ) packet, including applicable

requirements and specifications, is attached hereto as **EXHIBIT “A”**, and is incorporated herein for all purposes;

**WHEREAS**, the Surveyor submitted a SOQ in response to County’s RFQ and was pre-qualified to be included in the County’s pool of professional surveyors and has been selected from the pool to provide Professional Surveying Services as required by County, in accordance with the terms and provisions as provided herein;

**WHEREAS**, the Surveyor represents that it is qualified and desires to perform such Services;

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements herein contained, County and Surveyor do mutually agree as follows:

**ARTICLE 1. Employment of Surveyor.** The County agrees to employ the Surveyor and the Surveyor agrees to perform professional surveying services in connection with the Services as stated in the articles to follow and for having rendered such Services, the County agrees to pay the Surveyor compensation as stated in the articles to follow.

**ARTICLE 2. Character and Extent of Services.** This Agreement will provide for the development of the **Services** with the following:

**2.1 Scope of Work.** The County will furnish items and provide those services for the development of the Services and fulfillment of this Agreement as provided herein: authorization to the Surveyor to begin work as provided herein; payment for work performed by the Surveyor and accepted by the County as provided herein; assistance to the Surveyor, as necessary, to obtain the required data and information from other local, regional, State and Federal agencies that the Surveyor cannot easily obtain; provide any available relevant data the County may have on file concerning the project; provide timely review and decisions in response to the Surveyor’s request for information and/or required submittals and deliverables, in order for the Surveyor to maintain the agreed-upon work schedule prepared in accordance with this Agreement; attend and participate in progress meetings as required and as coordinated and conducted by the Surveyor; assist the Surveyor as required in the coordination with the USACE and the Federal Emergency Management Agency (FEMA) and any other coordinating agency or entity (*when and if applicable*); review and approve the Project design criteria; and review and approve change orders as required and prepared by the Surveyor.

**2.2 Classification of Services.** For this Agreement, the professional services to be provided by the Surveyor, are more particularly identified in **EXHIBIT “B” *Scope of Services to be provided by the Professional Service Provider***, attached hereto and made a part of this agreement (the “Services”). Surveyor’s submitted Scope of Services shall include, but not be limited to, the basic services it shall perform, a detailed work schedule, and any special services which may be

necessary. The Surveyor will diligently pursue the completion of the Services during the associated work schedule. The Surveyor will inform the County (in reasonable advance of the delay) should the Surveyor encounter delays that would prevent the performance of all work in accordance with the established work schedule. Surveyor agrees in performing the Services that it will use proper professional standards, comply with any and all appropriate laws and regulations in providing the Services, and devote such time as is necessary to safely and efficiently provide the Services.

**2.3 Non-Exclusive Services of Surveyor.** Hidalgo County reserves the right to request these services from other sources other than the Surveyor and shall not be in violation of any terms or conditions of this Agreement.

**ARTICLE 3. Period of Service.** Upon execution of this Agreement, the Surveyor shall proceed with the work outlined under Article 2 hereof.

**3.1 Term.** This Agreement is for a period of **one (1) year(s)**, commencing **September 17<sup>th</sup>, 2024** and expiring **September 16<sup>th</sup>, 2025**, (hereinafter referred to as the (“**Termination Date**”), unless extended by written Amendment as provided herein, duly executed by the Surveyor and the County prior to the Termination Date, or otherwise terminated as provided herein. The Surveyor will not begin to work or incur costs until authorized in writing by the County with a Project Specific “Purchase Order”. The County assumes no liability or obligation for payment to the Surveyor for work performed or costs incurred by the Surveyor prior to the date authorized by the County for the Surveyor to begin work, during periods when work is suspended, or subsequent to the completion of a Project Specific Purchase Order.

**3.2 Extension of the Termination Date.** The Surveyor shall notify the County in writing as soon as possible if it is determined, or reasonably anticipated, that the work under this Agreement cannot be completed before the Termination Date, and the County may, at the County’s sole discretion, extend the Termination Date by written Amendment as provided herein. The Surveyor shall allow adequate time for review and approval by the County of the written notice and request by the Surveyor to extend the Termination Date.

**3.3 Suspension of Work.** Should the County desire to suspend the work under this Agreement, but not terminate this Agreement, the County shall provide thirty (30) calendar days verbal notification to the Surveyor, followed by written confirmation from the County to the Surveyor to that effect. The thirty-day notice may be waived as agreed in writing by both the County and the Surveyor. The work under this Agreement may be reinstated and resumed in full force and effect within sixty (60) days of receipt of written notice from the County to the Surveyor. The sixty-day notice may be waived as agreed in writing by both the County and the Surveyor. If the County suspends the work, the Termination Date as identified above is not affected, and this Agreement will terminate on the date specified, unless extended by written amendment, as provided in the Amendment section hereof, duly executed by the Surveyor and the County prior to the Termination

Date.

**3.4 Termination of Agreement.** This Agreement may be terminated before the stated Termination Date identified above by any of the following conditions:

- (1) **Commitment of Current Revenues.** In the event that, during any term hereof, the County does not appropriate sufficient funds to meet to the obligations of this Agreement, the County may terminate this Agreement upon thirty (30) days written notice to the Surveyor. The County agrees, however, to use reasonable efforts to secure funds necessary for the continued performance of this Agreement. The parties intend this provision to be a continuing right to terminate this Agreement at the expiration of each budget period of the County pursuant to the provisions of Tex. Loc. Govt. Code Ann. ' 271.903 (Vernon Supp. 1995).
- (2) By mutual agreement and consent, in writing, of both the Surveyor and the County.
- (3) By the County, upon failure of the Surveyor to fulfill the Surveyor's obligations set forth herein in a satisfactory manner as determined by the County and in sole opinion of the County, after the County provides written notice to the Surveyor of such failure and the Surveyor has not corrected such failure within (30) days of such written notice by the County.
- (4) By the Surveyor, upon failure of the County to fulfill the County's obligations set forth herein, after the Surveyor provides written notice to the County of such failure and the County has not corrected such failure within thirty (30) days of such written notice by the Surveyor.
- (5) By the County without cause upon thirty (30) days written notice to the Surveyor.
- (6) By satisfactory completion of all services and obligations described herein.

Should the County terminate this Agreement as herein provided, no fees other than fees due and payable at the time of termination shall thereafter be paid to the Surveyor notwithstanding anything herein to the contrary. In determining the value of the work performed by the Surveyor prior to termination, the County shall be the sole judge of the value of such work performed. Compensation for work at termination will be based on a percentage of the work completed at that time. Should the County terminate this Agreement under (5) of the paragraph above, the amount charged during the thirty (30) day notice period shall not exceed the amount charged during the preceding ninety (90) days.

If the termination of this Agreement is due to the failure of the Surveyor to fulfill the Surveyor's obligations under this Agreement, the County may take over the Project and prosecute the work to completion. In such case, the Surveyor shall be liable to the County for any additional cost occasioned by the County.

If the Surveyor defaults in the performance of this Agreement or if the County terminates this Agreement for fault on the part of the Surveyor, the County will give consideration to payment of an amount in settlement to include: the actual costs incurred by the Surveyor in performing the work to the date of default, the amount of work required which was satisfactorily completed to date of default, the value of the work which is usable to the County, the cost to the County of employing another consultant and/or firm to complete the work required and the time required to do so, and other factors which affect the value to the County of the work performed at the time of default. This Agreement shall not be considered as specifying the exclusive remedy for any default by the Surveyor, but all remedies existing at law and in equity may be availed of by either party and shall be cumulative.

The termination of the Agreement and payment of an amount in settlement as prescribed above shall extinguish all rights, duties, and obligations of the County and the Surveyor under this Agreement, except the obligations set forth in Articles 11.2, 12, 13, 15, 16, 17, 18.3, 19, 23(a) and 23(e) hereto.

**ARTICLE 4. Progress and Coordination.** The Surveyor shall, from time to time during the progress of the work, confer with the County.

- a. The Surveyor shall prepare and present such information as may be pertinent and necessary, or as may be requested by the County, in order to evaluate features of the Surveyor's services and work.
- b. At the request of the County or the Surveyor, conferences shall be provided at the Surveyor's office, the offices of the County, or at other locations designated by the County. These conferences shall also include evaluation of the Surveyor's services and work when requested by the County.
- c. County shall assist Surveyor, as necessary, to obtain required data and information from other local, regional, state and federal agencies the Surveyor cannot easily obtain, provide any available relevant data the County may have on file concerning the Project.
- d. County shall provide timely review and decisions in response to the Surveyor's request for information and/or required submittals and deliverables, in order for Surveyor

to maintain the agreed-upon work schedule prepared in accordance with a Purchase Order (if applicable).

e. All applicable study reports shall be submitted in preliminary form for approval by the County before the final report is issued. The County's comments regarding the Surveyor's preliminary report will be addressed by the Surveyor in the final report.

f. If funds by other agencies or entities are to be used for the development of any project awarded under this Agreement, the Surveyor's Services and work will be subject to periodic review and approval by other agencies or entities, including those of the city, county, state and/or federal agencies.

g. Should it be determined that the progress in the production of the Surveyor's Services and work does not satisfy the requirements of the approved Purchase Order, the County shall review the approved Purchase Order with the Surveyor to determine the corrective action needed by either the County or the Surveyor.

h. **Reporting.** The Surveyor shall promptly advise the County in writing of events which have a significant impact upon the Agreement, a Project Specific Proposal/Purchase Order and/or the progress of the Surveyor's Services and work and the approved Work Schedule, including:

(1) Problems, delays or adverse conditions which will materially affect the ability to attain Agreement objectives, prevent the meeting of time schedules and goals, or preclude the timely completion and submittal of Project deliverables by the Surveyor within established time periods. This disclosure will be accompanied by a statement by the Surveyor of recommended or immediate action taken, or contemplated, and any County or other agency or entity assistance needed to resolve the situation, including Federal assistance if Federal funds are involved: and

(2) Favorable developments or events which enable meeting the Work Schedule goals sooner than anticipated or which are producing more work units than originally projected.

**ARTICLE 5. Compensation and Fees.** For and in consideration of the services to be rendered by the Surveyor, the County shall compensate the Surveyor as follows:

**5.1 Services.** For and in consideration of the *Services* to be rendered by the Surveyor, as identified herein and on the Purchase Order, the maximum amount payable by the County to the Surveyor for *Services*, subject to adjustment in accordance with Request for Payment provision provided below, will be provided in each Purchase Order issued. An outline and breakdown of the

Services Fee are more particularly identified in **EXHIBIT “C”-Surveyor Contract Rates/Cost Proposal**, attached hereto and made a part of this Agreement. Payments to the Surveyor for *Services* shall be made by the County, upon presentation by the Surveyor of the monthly Request for Payment, in accordance with the terms and provisions provided below.

**5.2 Special Services (If applicable).** Those services that may be required to be provided by the Surveyor as *Special Services* are set forth below and more particularly described in Surveyor’s proposal. For and in consideration of these *Special Services* rendered as required by the Surveyor, the County shall pay the Surveyor a negotiated lump sum fee (hereafter referred to as “Special Services Fee”) at the hourly labor rates and non-labor rates (hereinafter referred to as “Contract Rates”) specified in **EXHIBIT “C”**, attached hereto and made a part of this Agreement, and as follows:

- A. RESIDENT OR SITE SURVEYOR, INSPECTOR.** Actual performance of services of project site Surveyor, resident Surveyor and/or inspector, if required by County.
- B. DOCUMENT COPIES.** Actual performance and/or providing of additional copies (over 10) of report; additional copies (over 10) of plans (contract drawings), specifications and estimates (PS&E); additional copies (over 10) of bidding documents: additional copies (over 10) of as-built drawings.
- C. EXTRA TRAVEL.** Extra travel required of Surveyor and authorized by County to points outside of Hidalgo County.
- D. EXPERT WITNESS.** Assistance to the County as expert witness in any litigation with third parties, arising from the development or construction of the Project.
- E. MISCELLANEOUS.** Investigations involving detailed consideration of operation, maintenance, and overhead expenses and (unless otherwise agreed) the preparation of rate schedules, earning and expense statements; preparation of feasibility studies; environmental document preparation; appraisals, valuations, and material audits; or inventories required for certification of force account construction performed by the County; preparation of change orders for extra work done by the Contractor.

**ARTICLE 6. Method of Payment.** For and in consideration of the services to be rendered by the Surveyor, the County shall compensate the Surveyor as follows:

**6.1 Request for Payment.** The maximum amount payable under this Agreement shall not exceed the amount for each “**Purchase Order**”. The Surveyor shall submit periodic requests for payment within (30) thirty days after completion of each work order. The request for payment shall be made using forms acceptable to the County and shall show the total amount earned to the date of submission and the amount due and payable as of the date of the current billing. Upon receipt of said request for payment, County shall submit a requisition for payment for said Services in the customary manner provided for payments utilized by Hidalgo County, Texas. Surveyor agrees to separately account for the receipt and/or expenditure of funds received pursuant to this Agreement and to keep accurate books and records of all such receipts and/or expenditures. All payments to Surveyor shall be mailed to the address shown in the numbered section titled “Notices”. If the Project, or any portion(s) thereof, are deleted or otherwise not constructed, compensation to the Surveyor by the County for the Project or such portions of the project shall be only the amounts paid the Surveyor for actual work performed in accordance with the purchase order approved by the County.

**6.2 Final Payment.** If applicable, after all periodic payments as described above are paid by the County and upon final completion of the work by the Surveyor and acceptance thereof by the County, the Surveyor shall submit a final request for payment (“Final Request for Payment”) which shall set forth all amounts due and remaining unpaid to the Surveyor and upon approval thereof by the County, the County shall pay to the Surveyor the amount due (“Final Payment”) under such Final Request for Payment in accordance with the payment provisions set forth above.

**6.3 Qualification on Obligations to Pay.** Any provision hereof to the contrary notwithstanding, the County shall not be obligated to make any payment (whether a periodic payment as provided above or Final Payment) to the Surveyor hereunder if any one or more of the following conditions precedent exist:

- (1) The Surveyor is in default of any of its obligations hereunder or otherwise is in default under this Agreement or under any contract documents related to this Agreement;
- (2) Any part of such payment is attributable to the Surveyor’s services which are not performed in accordance with this Agreement; provided, however, such payment shall be made as to the part thereof attributable to the Surveyor’s services which were performed in accordance with this Agreement.
- (3) The Surveyor has failed to make payments promptly to consultants or other third parties used in connection with the Project for which the County has made payment to the Surveyor;
- (4) If the County, in good faith judgement, determines that the portion of the compensation then remaining unpaid will not be sufficient to complete the Surveyor’s services in accordance with this Agreement, no additional payments will be due the Surveyor hereunder unless and until the Surveyor, at its sole cost, performs a sufficient

portion of the Surveyor's services so that such portion of the compensation then remaining unpaid is determined by the County to be sufficient to so complete the Surveyor's services.

**6.4** No partial payment made hereunder shall be or construed to be final acceptance or approval of that part of the Surveyor's services to which such partial payment related or relieves the Surveyor of any of its obligations hereunder with respect thereto.

**6.5** If applicable, the Surveyor shall promptly pay all bills for labor and material performed and furnished by others in connection with the performance of the Surveyor's services.

**6.6 Waiver.** The making of the Final Payment shall constitute a waiver of all claims by the County except those arising from (1) faulty or defective services of the Surveyor appearing after completion of the Project. (2) failure of the Surveyor's services to comply with the requirements of this Agreement or any contracts or agreements related to the Project, or (3) terms of any special warranties required by this Agreement or provided at law or in equity. The acceptance of Final Payment shall constitute a waiver of all claims by the Surveyor except those previously made in writing and identified by the Surveyor as unsettled at the time of the Final Request for Payment.

## **ARTICLE 7. Commencement and Progress of the Work.**

**7.1 Proposal/Purchase Order.** After execution of this Agreement, the Surveyor shall proceed with the work outlined in this Agreement, only as authorized by the County, through an agreed Proposal and Purchase Order. The Surveyor will identify, as approved by the County, the needed services for the Project, as required through the course of the development to the Project. The County shall authorize the Surveyor to perform one or more of the agreed tasks identified in this Agreement and in Surveyor's proposal, in the form of individual Purchase Order. County will provide the authorization to proceed with services through coordination as needed with the project consulting and design Engineer. Upon authorization from the County, the Surveyor will prepare a final Proposal document, which will include a description of the work to be performed, including a description of the tasks and milestones, a work schedule, and an estimated cost proposal agreed upon by the County and the Surveyor. The estimated cost proposal shall set forth in detail the computation of the cost of each work task, at the hourly rates established and identified in **EXHIBIT "C"**, attached hereto. The Purchase Order shall not waive the County's and the Surveyor's responsibilities and obligations established in this Agreement.

**7.2** The estimated cost proposal for the Project, developed by the Surveyor and approved by the County, shall be used by the County to appropriate a purchase order for the Project. Each executed Purchase Order shall become a part of this Agreement. Upon satisfactory completion of the Project, the Surveyor shall submit the Project's deliverables as specified in the executed

Proposal/Purchase Order to the County for review and acceptance.

**7.3** Work included in a Project shall not begin until the County and the Surveyor have Purchase Order has been issued. All work must be completed on or before the completion date specified in the Proposal, unless extended by written agreement by the Surveyor and the County. The Surveyor shall promptly notify the County of any event that will affect completion of the Project. All specific Project Purchase Orders must be executed by both the Surveyor and the County within the period established for this Agreement as specified in the Term section hereof.

**7.4** The final closing by the County of each Purchase Order for a Project shall serve as evidence of completion, on the part of the Surveyor, of all services under this Agreement insofar as they pertain to that portion of work on the Project identified in the applicable Purchase Order.

**ARTICLE 8. Amendments** This Agreement may be amended as follows.

- a. If it becomes necessary at any time during the term of this Agreement to change the terms of this Agreement then a written amendment in a form developed by the County shall be executed within the Agreement period indicated above.
- b. If it becomes necessary at any time during the Project period to change the Project's scope of services, the Project's Authorization period, the maximum amount payable, the complexity, or the character of the Project then a written amendment shall be executed within the Project's Authorization period.
- c. The County retains the right to reject any such amendment proposed by the Surveyor. Any such amendments shall be made in writing, agreed to by all parties hereto, and duly executed before the end of the Agreement as specified. If the County finds it necessary to require changes in completed work because of errors made by the Surveyor, the County shall require the Surveyor to correct the work at no cost to the County and without amendment to the Agreement or specific Project period as specified. If the changes are made at the request of the County and are not due to errors of the Surveyor, the County will reimburse the Surveyor for the additional work at the same rate of pay established in Exhibit "C", i.e., "Contract Rates." If payment for the additional work will cause the maximum amount payable under a specific purchase order to be exhausted, an amendment shall be proposed in accordance with all state procurement laws. It is distinctly understood and agreed that no claim by the Surveyor for additional work or changes or revisions in work, as identified below, shall be made by the Surveyor until full execution of the Amendment and authorization to proceed is granted by the County. The County reserves the right to withhold payment to the Surveyor pending verification of

satisfactory work performed by the Surveyor.

**ARTICLE 9. Additional Work.** If the Surveyor is of the opinion that any work it has been directed to perform is beyond the scope of this Agreement and constitutes extra work, the Surveyor shall promptly notify the County in writing. In the event, the County finds that such work does constitute extra work, the County shall so advise the Surveyor and a written Amendment will be executed between the County and the Surveyor as provided herein. The Surveyor shall not perform any proposed additional work or incur any additional cost prior to the execution by both the Surveyor and the County of an Amendment. Additional compensation from the County to the Surveyor shall be paid as a negotiated lump sum fee at the Contract Rates specified in **EXHIBIT "C"** attached hereto. The negotiated lump sum fee shall be incorporated into the Amendment as specified in the Amendment provision above. The County shall not be liable or under any obligation to compensate the Surveyor for work performed or costs incurred by the Surveyor relating to additional work not directly associated with the performance of the work authorized in this Agreement or as amended through an Amendment.

**ARTICLE 10. Changes or Revisions in Work.** If the County finds it necessary to request changes to the work, and the changes are within the applications of sound surveying principles, the Surveyor shall make such revisions if requested and directed by the County.

**10.1 Preliminary Work.** The Surveyor will make, without expense to the County, such revisions of any preliminary reports or drawings as may be required to meet the needs of the County and the applications of sound surveying principles.

**10.2 Previously Approved or Satisfactorily Completed Work.** If the County finds it necessary to request the Surveyor to make changes to work previously approved by the County or work satisfactorily completed for which the County approves or after a definite plan has been approved by the County, if a decision is subsequently made by the County, which for proper execution involves extra services and expenses for changes in or additions to the drawings specifications or other documents, this will be considered as additional work, and compensation from the County to the Surveyor will be in accordance with the Additional Work provision hereof.

**10.3 Project Delays.** If the Surveyor is required to perform additional work due to delays by the imposition of causes not within the Surveyor's control, such as by the re-advertisement of bids or by the delinquency or insolvency of contractors, such work associated with these delays shall be considered additional work, and the Surveyor shall be compensated by the County for such extra services and expense in accordance with the applicable provisions hereof.

**10.4 Reduction of Project Cost.** Notwithstanding any provision herein to the contrary, in the event it is necessary for the County to require changes in the final plan of the Project to enable

it to the reduce the construction cost of the Project to an amount within the sum estimated by the Surveyor, the Surveyor will be required to make such revisions or changes. These changes will only be considered additional work by the Surveyor, if the Surveyor previously provided these same changes as options to the County at the stage of preliminary work or prior to the approval of the final plan for the Project, and the option or options were not selected or approved by the County to be incorporated into the final plan of the Project. Payment for this additional work will then be made to the Surveyor in accordance with the Additional Work provision hereof. If the Surveyor failed to provide these changes as an option or options to the County at the stage of preliminary work or prior to the approval of the final plan of the Project, these changes will not be considered additional work and no additional compensation will be made to the Surveyor.

**10.5 Inspection of Work.** The County has the right at all reasonable times to inspect or otherwise evaluate the work performed hereunder and the premises in which it is being performed. If any inspection or evaluation is made on the premises of the Surveyor, or of a subcontractor, the Surveyor shall provide and require its subcontractor to provide all reasonable facilities and assistance for the safety and convenience of the inspectors in the performance of their duties. All inspections and evaluations shall be performed in such a manner as will not unduly delay their work.

## **ARTICLE 11. Countyship and Release of Documents.**

**11.1 Countyship of Documents.** Original drawings and specifications are the property of the Surveyor however the Project is the property of the County, and the Surveyor may not use the drawings and specifications thereof for any purpose not relating to the Project with the County's consent. The County shall be furnished with such reproductions of drawings and specifications as the County may reasonably require, as well as to County's project Engineer as necessary and/or at County direction. Upon completion of the work or any earlier termination of this Agreement under the termination provision provided herein, the Surveyor will revise drawings to reflect changes made during construction and will promptly furnish the County with one complete set of reproducible record prints. Prints shall be furnished by the Surveyor, as an additional service, at any other time requested by County. All such reproductions shall be the property of the County who may use them without the Surveyor's permission for any proper purpose relating to the Project, including but not limited to additions to or completion of the Project. Any additions or revisions by the County to a drawing signed, sealed, and dated by a registered professional Surveyor, shall be made in accordance with applicable law or standards.

All sketches, photographs, calculations, and other data prepared under this Agreement shall be made available, upon request, to the County without restriction or limitation on their further use. All documents furnished to the Surveyor by the County shall be delivered to the County upon completion or termination of this Agreement. The Surveyor, at the Surveyor's own expense, may

retain copies of such documents or any other data under this Agreement.

**11.2 Release of Documents or Information.** Release of information to the public or others regarding the **Project** will be in accordance with the Texas Public Information Act.

**ARTICLE 12. Discounts, Rebates, Refunds.** In connection with procurement services rendered by the Surveyor, if procurement services are required of the Surveyor hereunder, all discounts, rebates, and refunds shall accrue to the County. For some purchases, the Surveyor may deem that payment within the discount period is not safe; and/or inspection, guarantees, or other considerations may dictate delay. In such cases, the Surveyor shall promptly notify the County so that a course of action may be mutually agreed upon by the County and the Surveyor.

**ARTICLE 13. Records, Accounting, Inspection.** The Surveyor shall keep full and detailed records and accounts in a manner approved by the County. The Surveyor shall afford the County's authorized personnel and independent auditors, if any, full access to the work performed by the Surveyor regarding the Project and to all of the Surveyor's books, records, correspondence, instructions, drawings, receipts, vouchers and other documents relating to such work under this Agreement and the Surveyor shall preserve all such records for three (3) years after final payment or as required by law if longer. The Surveyor shall deliver to the County upon completion of such work, a statement of the cost of such work detailed according to the accounting procedure and requirements of the County.

**ARTICLE 14. Subcontracting and Assignment.** The Surveyor shall not assign, subcontract or transfer the Surveyor's interest in this Agreement, including goods and/or services, without the prior written consent of the County detailing the same. The Surveyor shall bind every subconsultant by written subcontract to observe all the terms of this Agreement to the extent that they may be applicable to each subconsultant. No subcontract relieves the Surveyor of any responsibilities under this Agreement. The Surveyor, and the County, do hereby bind themselves, their successors, executors, administrators and assigns to each other party of this Agreement and the successors, executors, administrators, and assigns of such other party in respect to all covenants of this contract.

**ARTICLE 15. Patents.** The Surveyor shall indemnify and save the County harmless from all liability for alleged or actual infringement of any patent resulting from the use of apparatus or equipment furnished or designed by the Surveyor or from the use of any process designed by the Surveyor or effected by said apparatus or equipment, and the Surveyor shall indemnify and save the County harmless from and against all costs, legal fees, expenses and liabilities incurred in or about any claim of or action for such infringement: provided, however, that the County shall promptly transmit to the Surveyor all papers served on the County in any suit involving such claim of infringement, and provided further, that the County permits the Surveyor to have entire charge and

control of the defense of any such suit. If because of actual infringement the use of such apparatus, equipment, or process is enjoined, the Surveyor shall refund the purchase price thereof in proportion to the length of service uncompleted, the life of such apparatus or equipment being assumed as five years. The Surveyor hereby grants to the County a non-exclusive, royalty-free license under patents now or hereafter owned by the Surveyor covering any machines, apparatus, processes, articles, or products included in the Surveyor's work hereunder.

## **ARTICLE 16. Confidential Information, Inventions, and Other Restrictions.**

**16.1 Confidential Information.** The Surveyor shall not use in any way, commercial or otherwise, except to the extent required by the proper performance of this Agreement; and shall hold in confidence and not disclose to any person, for any reason or at any time, any information relating to the secret processes, products, compositions, machinery, apparatus or trade secrets of the County, or any other confidential information given to the Surveyor by any of the County's commissioners, elected officials, employees, or representatives or acquired by the Surveyor during the term of or as a result of this Agreement. Any information not generally available to the public shall be considered secret and confidential for the foregoing purposes; provided, however, that any technical information which was lawfully in the Surveyor's possession prior to such disclosure to the Surveyor by the County or which is or shall lawfully be published or become part of general knowledge from sources other than the Surveyor or which otherwise shall lawfully become available to the Surveyor from a source other than the County, shall not be subject to these provisions. All the foregoing stipulations shall apply to such information and work hereunder as well as to any information and ideas originated or developed by the Surveyor in performing such work. Such information may, of course, be disclosed to the proper officials or employees of the County if necessary to perform the work hereunder. The Surveyor shall, however, inform each of its employees who receive such information of these restrictions and the Surveyor shall take all reasonable precautions and exert all reasonable efforts to assure conformance with such restrictions by all of its officers, employees, and agents, obtaining from them if necessary, agreements satisfactory to the County, effectuating the purposes of this section.

**16.2 Inventions.** The Surveyor shall communicate to the County at once, and require the Surveyor's employees assigned to this Project to communicate to the County all inventions and improvements which any of the Surveyor's employees, either alone or in conjunction with any of the County's employees may conceive, make or discover during the course of or as a result of work on this Project under this or any ensuing agreement with the County that relates to the processes, products, compositions, machinery or plants of the County, or relating in any way to any of the operations in which the County may be obligated to pay to the Surveyor as compensation for services rendered by the Surveyor under contract with the County. The Surveyor shall require its employees to execute patent applications and assignments thereof to the County or its nominees, and powers of

attorney relating thereto for any country the County may designate and shall take all other actions as the County may request to maintain and protect such inventions and improvements. The County shall pay all costs or charges incurred in protecting such inventions and improvements if the County desires to protect them. Before assigning any of the Surveyor's employees to work under any contract with the County concerning this Project, the Surveyor shall obtain from them agreements satisfactory to County complying in all respects with the terms and provisions of this section.

**16.3** The rights and obligations set forth in this section shall survive the performance of this Agreement, or any termination, discharge or cancellation thereof.

#### **ARTICLE 17. Surveyor's Seal, Responsibility and Warranties.**

**17.1 Surveyor's Seal.** The Surveyor shall assign a responsible Surveyor or Surveyors licensed to practice in the State of Texas, who shall sign, seal and date all appropriate Surveying submissions to the County in accordance with applicable law and standards.

**17.2 Surveyor's Responsibility.** The Surveyor shall be responsible for the accuracy of the work for the Project and shall promptly make necessary revisions or corrections resulting from errors, omissions, or negligent acts by the Surveyor. No additional compensation will be made to the Surveyor for any necessary revisions or corrections resulting from errors, omissions, or negligent acts by the Surveyor.

The Surveyor's responsibility for all questions arising from design errors and/or omissions will be determined by the County or a designee appointed by the County. The Surveyor will not be relieved of the responsibility for subsequent correction of any such errors or omissions or for clarification of any ambiguities until after the construction phase of the Project has been completed.

#### **17.3 Warranties.**

- a. The Surveyor warrants that surveying work performed by the Surveyor hereunder shall be in accordance with sound surveying practices and in conformance with applicable code and standards established for such work.
- b. Notwithstanding anything to the contrary contained in this Agreement, the County and the Surveyor agree and acknowledge that the County is entering into this Agreement in reliance on the Surveyor's experience and abilities with respect to performing the Surveyor's services hereunder. The Surveyor accepts the relationship of trust and confidence established between it and the County by this Agreement. The Surveyor covenants with the County to use the Surveyor's best efforts, skill, judgement and

abilities to design the Project, perform services and to further the interests of the County in accordance with the County's requirements and procedures, in accordance with all professional standards, and in compliance with all applicable national, federal, state, county and municipal laws, regulations, codes, ordinances, orders and with those of any other body having jurisdiction. If the development of plans, specifications and estimates (hereinafter referred to as "PS&E") is part of the services to be provided by the Surveyor for any Project entered into as part of this Agreement, prior to the commencement of construction, the Surveyor shall certify in writing to the County that the PS&E for the Project, and the improvements when built in accordance therewith, conform to all applicable governmental regulations, statutes and ordinances then in effect. The Surveyor represents covenants and agrees that there are no obligations, commitments or impediments of any kind that will limit or prevent performance of the Surveyor's services.

- c. The Surveyor represents, covenants and agrees that all of Surveyor's services to be furnished by the Surveyor under or pursuant to this Agreement from the inception of the Agreement until the Project has been fully completed, shall be of the standard and quality which prevail among Surveyors of similar experience, knowledge, skill and ability engaged in Surveying practice throughout Texas under the same or similar circumstances involving the design and construction of Project.
- d. The Surveyor represents, covenants and agrees that the Surveyor's special talent, training and experience may cause the Surveyor to be the prime professional on the Project (designation to be determined at project development phase); that because of such talent and training, the Surveyor envisions the construction of the Project in its entirety and possesses the special skills which enable the Surveyor to recognize dangerous conditions that a reasonable, prudent Surveyor having such special skills could anticipate may arise from the proper use of the Project after acceptance by County; and that the Surveyor recognizes that any commissioners, elected officials, employees and agents of the County, plus residents and County of property within the area affected by the Project are within a class of foreseeable persons who will be relying on the project being designed in a professional and safe manner.
- e. If the development of PS&E is part of the services to be provided by the Surveyor for any Project entered into as part of this Agreement, the Surveyor represents, covenants and agrees that the PS&E of the Project will be accurate and free from any material errors. The Surveyor additionally represents, covenants and agrees to the following: that the design of the Project will conform to its foreseeable use as a Project with all the amenities as set forth in any PS&E developed by the Surveyor for the Project; that the result of such PS&E, if built in accordance therewith, will be suitable for purposes for which the Project

is designed; and the Project will be inspected in a workmanlike, professional manner and will be suitable for the Project's intended purpose. The Surveyor's responsibilities as set forth herein shall at no time be in any way diminished by reason of any approval by the County of any PS&E developed by the Surveyor for the Project, nor shall the Surveyor be released from any liability by reason of such approval by the County, it being understood that the County at all times is ultimately relying upon the Surveyor's skill and knowledge in preparing such PS&E.

- f. In connection with the Surveyor's performance of procurement services hereunder, if any, the Surveyor shall use its best efforts to obtain from all vendors of equipment and materials, the fullest possible warranties against defective materials and workmanship for the benefit of the County.

**ARTICLE 18. Surveyor's Resources.** The Surveyor shall furnish and maintain, at the Surveyor's own expense, office space for the performance of all services, skilled and sufficient personnel, as well as adequate and sufficient equipment to perform the services as required under this Agreement.

**18.1 Project Manager.** The Surveyor shall provide a manager (Project Manager) for the Project that is a registered professional Surveyor in the State of Texas. The Project manager shall have such knowledge and experience as will enable that Project Manager during the course of the Project without prior consent of the County. If due to situations beyond the control of the Surveyor, the Surveyor must change the Project Manager prior to the completion and acceptance of the Project, the Surveyor will submit a request to change the Project Manager to the County for approval.

**18.2 Employees of the Surveyor.** All employees of the Surveyor shall have such knowledge and experience as will enable them to perform the duties assigned to them and required for the services under this Agreement. Any employee of the Surveyor who, in the opinion of the County, is incompetent, or whose conduct becomes detrimental to the work required under this Agreement, shall immediately be removed from association with the Project when so instructed by the County. The Surveyor certifies that the Surveyor presently has employed sufficient and qualified personnel, and will maintain sufficient and qualified personnel for performance of the services under this Agreement.

**18.3 Documents/Information Exchange** The purpose of this section is to define the required automated resources, format for graphics files, and information exchange pertaining to the Project. Taking into consideration that the County has a significant investment in the development of the Project, there is a need for the Surveyor to provide consistency in

document development for information exchange. Consistency in document development for information exchange and production will help facilitate an economically efficient Project. Therefore, the Surveyor shall provide the County with documents and information in accordance with the special requirement outlined in the project specific scope of services provided by Surveyor.

**ARTICLE 19. Indemnification.** To the fullest extent permitted by applicable law, the Surveyor and its agents, partners, subcontractors, and consultants (collectively “Indemnitors”) shall and do agree to indemnify, and hold harmless the County, the County’s respective directors, elected officials, employees and agents (collectively “Indemnitors”) from and against all claims, damages, losses, liens, causes of action, suits, judgments and expenses, including attorney fees, of any nature, kind or description (collectively “Liabilities”) of any person or entity whomsoever arising out of, caused by or resulting from the negligent performance of the Surveyor’s services through activities of the Surveyor, its agents, partners, subcontractors and/or consultants performed under this Agreement, and which are caused by or result from error, omission, or negligent act of the Surveyor or of any person employed or contracted by the Surveyor provided that any such Liabilities (1) are attributable to bodily injury, personal injury, sickness, disease or death of any person, or to the injury to or destruction of tangible personal property including the loss of use and consequential damages resulting therefrom and (2) are caused in whole or in part by any negligent act or omission of the Surveyor, anyone directly or indirectly employed by the Surveyor or anyone for whose acts the Surveyor may be legally liable. The Surveyor shall also save harmless the County from any and all expense, including but not limited to, attorney fees which may be incurred by the County in litigation or otherwise resisting said claim or liabilities which may be imposed on the County as a result of such activities by the Surveyor, its agents partners, subcontractors and/or consultants. In this connection, it is agreed and understood that the Surveyor shall not be responsible for any portion of the liability proximately caused by the County’s negligence.

**ARTICLE 20. Joint and Several Liability.** In the event more than one of the Indemnitors are connected with an accident or occurrence covered by the indemnification provision hereof, then each of such Indemnitors shall be jointly and severally responsible to the Indemnitees for indemnification and the ultimate responsibility among such Indemnitors for the loss and expense of any such indemnification shall be settled by separate proceedings and without jeopardy to any Indemnitee. The provisions of this Article shall not be construed to eliminate or reduce any other indemnification or right which the County or any of the Indemnitees has by law.

**ARTICLE 21. Insurance.** Consistent with its status as an independent contractor and at its sole expense, Surveyor agrees that throughout the duration of the work under this contract and any extension thereof, it shall provide and maintain in full force and effect any and all insurances which

may be necessary for providing Services or are otherwise required by law, and shall require of all its sub-consultants connected with providing services under this contract to provide insurance in full force and effect as well. Insurance policies shall cover, but are not limited to, Surveyor's activities and all persons, vehicles, equipment, and property connected with providing Services, including but not limited to professional liability insurance covering Surveyor's activities in providing the services to the County. Coverage shall be in the amounts specified by the County in the Request for Qualifications ("RFQ") or as prescribed by law, but in no event shall any amount be less than the minimum amounts prescribed by the Texas Tort Claims Act, §100.001, et seq., Texas Civil Practices and Remedies Code. Surveyor shall furnish to the County certificate(s) of insurance and all renewals throughout the duration of any assigned Project on an Accord form, issued by the insurer that such insurance is in full force and effect. **See attached EXHIBIT "D", i.e., *Certificates of Insurance***, attached hereto and incorporated by reference herein. For each applicable policy, Surveyor shall name the County as an additional insured. Surveyor shall notify the County a minimum of thirty (30) days in advance of cancellation of all or part of a policy. Surveyor shall make any other insurance documentation available to the County upon request. The Surveyor will be considered in breach of contract should the Surveyor fail to maintain an insurance policy in the minimum limits of liability and requirements identified above while performing services for and under this Agreement, and will be subject to default and termination of the Agreement as outlined in the sections above. Additionally, the Surveyor covenants and agrees to use its best efforts to maintain an insurance policy in the minimum limits of liability and requirements identified above until one year following the date of the acceptance of the Project by County.

**ARTICLE 22. Notices.** Except as may be otherwise specifically provided in this Agreement, all notices, demands, requests, or communications required or permitted hereunder shall be in writing and shall either be (i) personally delivered against a written receipt, or (ii) sent by a registered or certified mail, return receipt requested, postage prepaid and addressed to the parties at the addresses set forth below, or at such other addresses as may have been specified by written notice delivered in accordance herewith:

If to County:                    County of Hidalgo  
    Attention: County Judge  
    Address 100 E. Cano, 2<sup>nd</sup> Floor  
    Edinburg, Texas 78539

CC.                                Precinct No. 4  
    Attn: Precinct No. 4 Ellie Torres Commissioner  
    Address: 1051 N Doolittle Rd  
    Edinburg, TX 78542

If to Surveyor: SAMES, Inc.  
Attention: Samuel Maldonado  
Address: 200 S. 10th Street, Ste. 1500  
McAllen, TX 78501

Each notice, demand, request, or communication which shall be delivered or mailed in the manner described above shall be deemed sufficiently given for all purposes at such time as it is personally delivered to the addresses or if mailed at such time as it is deposited in the United States mail.

### **ARTICLE 23. Miscellaneous Provisions**

- a. Compliance with Laws.** The Surveyor shall comply with all applicable Federal, State, and local laws, statutes, codes, ordinances, rules and regulations and the orders and decrees of any court, or administrative bodies or tribunals in any manner affecting the performance of this Agreement including, without limitation, workers compensation laws, minimum and maximum salary, and wage statutes and regulations and licensing laws and regulations. When required the Surveyor shall furnish the County with satisfactory proof of its compliance therewith.
- b. Non-Collusion.** The Surveyor warrants that the Surveyor has not employed or retained any company or persons, other than a bona fide employee working solely for the Surveyor, to solicit or secure this Agreement, and that the Surveyor has not paid or agreed to pay any company, Surveyor or any other person or entity any fee, commission, percentage, brokerage fee, gifts or any other consideration contingent upon or resulting from the award or execution of this Agreement. For breach or violation of this warranty, the County shall have the right to annul this Agreement without liability or, in the County's discretion, to deduct from the *Services Fee*, or otherwise recover, the full amount of each fee, commission, percentage, brokerage fee, gift or contingent fee.
- c. Gratuities.** The County mandates that employees of the County shall not accept any benefits, gifts or favors from any person doing business or who reasonably speaking may do business with the County under this Agreement; the only exceptions allowed are ordinary business meals. Any person doing business with or who may reasonably seek to do business with the County under this Agreement may not make any offer of benefits, gifts or favors to County employees, except as mentioned hereinabove. Failure on the part of the Surveyor to adhere to this provision may result in the termination of this Agreement.
- d. Payment of Franchise Tax.** The Surveyor hereby certifies that the Surveyor is not

delinquent in Texas franchise tax payments, or that the Surveyor is exempt from, or not subject to, such as tax. A false statement concerning franchise tax status shall constitute grounds for termination of the Agreement at the sole option of the County.

- e. **Disputes.** The Surveyor shall be responsible for the settlement of all contractual and administrative issues arising out of any procurement made by the Surveyor in support of the services under this Agreement.
- f. **Severability.** In the event any one or more of the provisions contained in this Agreement shall for any reason, be held to be invalid, illegal, or unenforceable in any respect such invalidity, illegality or unenforceability shall not affect any other provision hereof and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.
- g. **Entire Agreement.** This Agreement contains the entire agreement between the parties hereto, and each party acknowledges that neither has made (either directly or through an agent or representative) any representations or agreements in connection with this Agreement not specifically set forth herein. This Agreement may be modified or amended only by agreement in writing executed by County and Surveyor, and not otherwise.
- h. Except as specifically provided herein no modification, waiver, termination, rescission, discharge or cancellation of this Agreement or any terms thereof shall be binding on the County unless in writing and executed by an officer or employee of the County specifically authorized to do so.
- i. **No Waiver.** No waiver by County of any breach of any provision of this Agreement shall be deemed to be a waiver of any preceding or succeeding breach of the same or any other provision hereof. No waiver of any provision of or default under this Agreement shall affect the right of the County thereafter to enforce said provision or to exercise any right or remedy in the event of any other default whether or not similar.
- j. No modification, waiver, termination, discharge or cancellation of this Agreement or any terms thereof shall impair the County's right with respect to any liabilities whether or not liquidated of the Surveyor to the County theretofore accrued.
- k. All rights and remedies of the County specified in this Agreement are in addition to the County's other rights and remedies.
- l. **Independent Contractor.** Surveyor must comply with all applicable Hidalgo County policies and with any applicable federal, state, or local laws, regulations, orders, or

ordinances applicable to the Services provided by Surveyor under this Agreement. Notwithstanding the foregoing sentence, Surveyor represents and maintains that it is an Independent Contractor and is not an employee of Hidalgo County, Texas or any agency thereof, and represents and warrants that it does not desire or request any fringe benefits provided to employees of Hidalgo County, Texas, and/or any agency thereof, including, but not limited to benefits associated with Hidalgo County's civil service program. Surveyor agrees to be responsible for any federal income tax, withholding, or social security tax liability that might arise from payments received hereunder.

- m. Venue.** This Agreement shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Hidalgo County, Texas. The Surveyor hereby consents to personal jurisdiction in Hidalgo County, Texas.
- n.** This Agreement may only be amended by a written document executed by the County and the Surveyor as provided in the Amendment section herein.
- o. Authority.** The execution and performance of this Agreement by County and Surveyor have been duly authorized by all necessary laws, resolutions, or corporate action, and this Agreement constitutes the valid and enforceable obligation of County and Surveyor in accordance with its terms.
- p. Immunities.** Nothing in this Agreement intended to, and County does not hereby waive, release, or relinquish any right to assert any of the defenses County enjoys by virtue of the state or federal constitution, laws, rules or regulations, and any sovereign, official or qualified immunity available to County as to any claim or action of any person, entity, or individual against County.
- q. Licenses.** As a condition of this Agreement, Surveyor shall hold and maintain throughout the term of this Agreement all licenses and permits required, or which may be required by any authority during the term hereof to provide the required Services. If such license or permit is suspended or revoked, this Agreement shall automatically be terminated and the Surveyor shall immediately notify the County.
- r. Equipment.** All trucks or vehicles operated by the Surveyor to perform the Services shall contain all equipment required by any authority to operate on streets and roads and all persons in the employ of Surveyor who operate such trucks or vehicles shall have the required licenses, qualifications, skill and expertise to perform such Services and shall comply with all laws, rules and regulations prescribed by any agency or authority having jurisdiction with regard to the operation of such trucks or vehicles in providing the

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

- s. **No Assignment.** Except as otherwise provided herein, Surveyor may not assign the obligations or rights under this Agreement to any person without the prior written consent of County.
- t. **Conflict.** Nothing in this Agreement shall be construed so as to require the commission of any act contrary to law, and whenever there is any conflict between any provision of this Agreement and any present or future law, ordinance or administrative, executive or judicial regulation, order, or decree, or amendment thereof, contrary to which the parties have no legal right to Agreement, the latter shall prevail, but in such event, the affected provision or provisions of this Agreement shall be modified only to the extent necessary to bring them to the legal requirements and only during the time such conflict exists. In case anyone, or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.
- u. **Binding Agreement.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors, and assigns where permitted by this Agreement.
- v. **Gender.** All pronouns used in this Agreement shall include the other gender, whether used in the masculine, feminine or neuter gender and the singular shall include the plural whenever and as often as may be appropriate.
- w. **Commitment of Current Revenues Only.** In the event that, during any term hereof, the Commissioners Court does not appropriate sufficient funds to meet the obligations of County under this Agreement, County may terminate this Agreement upon thirty (30) days written notice to Surveyor. County agrees, however, to use reasonable efforts to secure funds necessary for the continued performance of this Agreement. The parties intend this provision to be a continuing right to terminate this Agreement at the expiration of each budget period of County. *Agreements for the acquisition, including the lease of real or personal property under Tex. Loc. Govt. Code §271.903:* In the event that during any term hereof the Commissioner's Court does not appropriate sufficient funds to meet the obligations of County under this agreement, County may terminate the Agreement upon thirty (30) days written notice to Surveyor. County agrees, however, to use a best efforts attempt to obtain and appropriate funds for payment of the Agreement.

The parties intend this provision, if applicable, to be a continuing right to terminate this Agreement at the expiration of each budget period of County in accordance with Tex. Loc. Govt. Code §271.903 (Vernon Supp. 1966).

- x. **Nondiscrimination.** Surveyor, including subcontractors, assignees, and successors in interest, ensures that no person shall on the grounds of race, religion, color, national origin, sex, age, or disability, or any other protected class under law, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination or retaliation in any federally or non-federally funded program or activity when providing any services described herein under this contract. Applicable nondiscrimination statements and provisions of Title VI of the Civil Rights Act of 1964, as amended, were provided as part of the initial procurement packet and are incorporated herein and made part of this agreement for all purposes.
- y. **Additional Documents.** The parties hereto covenant and agree that they will execute such other and further instruments and documents as are or may become necessary or convenient to effectuate and carry out the terms of this Agreement.
- z. **Required Contract Provision for Contracts Subject to Federal Award (if applicable).** Pursuant to 2 CFR 200.237, a non-federal entity's contracts must contain the applicable provisions described in Appendix II to 2 CFR 200-Contract Provisions for non-Federal Entity Contracts under Federal Awards. Additionally, County contracts under Federal award which are subject to assistance from the Federal Emergency Management Agency (FEMA) are also required to contain additional contract clauses. The applicable required contract clauses were provided as part of the initial procurement packet and are incorporated herein and made part of this agreement for all purposes.

*[Signature page to follow]*

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

**APPROVED BY COMMISSIONERS' COURT ON SEPTEMBER 17TH, 2024.**

**Agenda Item No. 96701**

**Executive Office: \_\_\_\_\_**

**PROFESSIONAL SERVICE PROVIDER:**  
SAMES, INC.

**COUNTY:**  
COUNTY OF HIDALGO

\_\_\_\_\_  
Samuel Maldonado, President.

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

**APPROVED AS TO FORM**  
Office of the Hidalgo County  
Criminal District Attorney,  
Toribio "Terry" Palacios

**ATTEST:**

\_\_\_\_\_  
XXXXXXXX, Assistant District Attorney

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

**ATTACHMENTS:**

**SUPPLEMENTAL SIGNATURES (if any):**

- EXHIBIT A** -Requirements/County's Request for Qualifications
- EXHIBIT B** – Services to be provided by the Professional Service Provider
- EXHIBIT C** - Contract Rates/Cost Proposal
- EXHIBIT D** - Certificates of Insurance

## **COUNTY OF HIDALGO AMERICAN RESCUE PLAN ACT (ARPA) CONTRACT ADDENDUM**

The contract or purchase order to which this addendum is attached is made using federal assistance provided to the County of Hidalgo by the US Department of Treasury under the American Rescue Plan Act ("ARPA"), Sections 602(b) and 603(b) of the Social Security Act, Pub. L. No. 117-2 (March 11, 2021).

As such, this contract or purchase order is subject to the requirements applicable to federal awards as provided in 2 CFR 200. Further, in addition to any and all required contract clauses included in the procurement packet incorporated herein and made part of this Addendum and Agreement, including but not limited to those found in **Appendix II to 2 CFR 200** (required contract provisions for contracts subject to federal award) and the included Legal Notice, the following terms and conditions apply to you, the contractor or vendor, as a contractor of the County of Hidalgo, according to the County's Award Terms and Conditions; by ARPA and its implementing regulations; and as established by the Treasury Department. This list is not exclusive and shall include any amendments to the referenced required contract clauses, and other required contract clauses and/or any future required contract clauses. Applicable clauses and additional information for contracts subject to federal award may be found in the respective procurement packet (See procurement packet Appendix regarding the same) and are incorporated herein and made part of this Addendum and Agreement.

1. **Equal Opportunity.** Contractor shall comply with Executive Order 11246, "Equal Employment Opportunity," as amended by EO 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

2. **Minority and Women Business Enterprises (if applicable to this Contract).** Contractor hereby agrees to comply with the following when applicable: The requirements of Executive Orders 11625 and 12432 (concerning Minority Business Enterprise), and 12138 (concerning Women's Business Enterprise), when applicable. Accordingly, the Contractor hereby agrees to take affirmative steps to assure that women and minority businesses are utilized when possible as sources of supplies, equipment, construction and services. Affirmative steps shall include the following:

- a. Including qualified women's business enterprises and small and minority businesses on solicitation lists;
- b. Assuring that women's enterprises and small and minority businesses are solicited whenever they are potential sources;
- c. When economically feasible, dividing total requirements into smaller tasks or quantities so as to permit maximum participation by small and minority business, and women's business enterprises;
- d. Where the requirement permits, establishing delivery schedules which will encourage participation by women's business enterprises and small and minority business;
- e. Using the services and assistance of the Small Business Administration, and the U.S. Office of Minority Business Development Agency of the Department of Commerce; and

f. If any subcontracts are to be let, requiring the prime Contractor to take the affirmative steps in a through e above. For the purposes of these requirements, a Minority Business Enterprise (MBE) is defined as an enterprise that is at least 51 percent owned and controlled in its daily operation by members of the following groups: Black, Hispanic, Asian or Pacific Islander, American Indian, or Alaskan Natives. A Women Business Enterprise (WBE) is defined as an enterprise that is at least 51 percent owned and controlled in its daily operation by women.

**3. Suspension and Debarment.** (applies to all purchases.) (A) This contract is a covered transaction for purposes of 2 CFR pt. 180 and 2 CFR pt. 3000. As such, the Contractor is required to verify that none of Contractor's principals (defined at 2 CFR § 180.995) or its affiliates (defined at 2 CFR § 180.905) are excluded (defined at 2 CFR § 180.940) or disqualified (defined at 2 CFR § 180.935). (B) The Contractor must comply with 2 CFR pt. 180, subpart C and 2 CFR pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into. (C) This certification is a material representation of fact relied upon by the County of Hidalgo. If it is later determined that the contractor did not comply with 2 CFR pt. 180, subpart C and 2 CFR pt. 3000, subpart C, in addition to remedies available to the County, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. (D) The Contractor agrees to comply with the requirements of 2 CFR pt. 180, subpart C and 2 CFR pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The Contractor further agrees to include a provision requiring such compliance in its lower tier covered transactions.

**4. Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352, as amended. (Applies to all purchases.)** Contractor certifies 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. Contractor 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 who in turn will forward the certification(s) to the awarding agency. **For Purchases over \$100,000 - Contractors must sign the certification included in the Byrd Anti-Lobbying section of the procurement packet APPENDIX entitled- Required Contract Clauses for Contracts under Federal Award.**

**5. Access to Records.** (applies to all purchases.) (A) The Contractor agrees to provide the County of Hidalgo, the U.S. Department of Treasury, 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. The Contractor agrees to permit any of the foregoing parties to reproduce by any means or to copy excerpts and transcriptions as reasonably needed, and agrees to cooperate with all such requests. (B) The Contractor agrees to provide the Treasury Department or authorized representatives access to construction or other work sites pertaining to the work being completed under the contract. (C) No language in this contract is intended to prohibit audits or internal reviews by the Treasury Department or the Comptroller General of the United States.

**6. Rights to Inventions Made Under a Contract or Agreement.** Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any applicable implementing regulations.

**7. Contract Work Hours and Safety Standards Act (40 U.S.C. 327 through 333) (applies only to purchases over \$100,000, when laborers or mechanics are used.)** Where applicable, all contracts in excess of \$100,000 that involve the employment of mechanics or laborers shall include a provision for compliance with 40 U.S.C. 3702 and 3704 of the Contract Work Hours and Safety Standards Act, as supplemented by Department of Labor regulations (29 CFR part 5). Under Section 3702 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard workweek of 40 hours. Work in excess of the standard workweek is permissible provided that the worker is compensated at a rate of not less than 1 1/2 times the basic rate of pay for all hours worked in excess of 40 hours in the workweek. The requirements of 40 U.S.C. 3704 are applicable to construction work and provides that no laborer or mechanic shall 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.

**8. Clean Air Act & Federal Water Pollution Control Act (applies to purchases of more than \$150,000.)** (A) 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. (B) The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. (C) The Contractor agrees to report each violation of the Clean Air Act and the Water Pollution Control Act to the County of Hidalgo and understands and agrees that the County will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office. (D) Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance.

**9. Prohibition on certain telecommunications and video surveillance services or equipment (Huawei and ZTE)**

Contractor is prohibited from obligating or expending loan or grant funds to:

- (1) Procure or obtain;
- (2) Extend or renew a contract to procure or obtain; or
- (3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems 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. As described in Public Law 115–232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

- (i) 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).

(ii) Telecommunications or video surveillance services provided by such entities or using such equipment.

(iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the 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.

**9. Buy USA** - Domestic Preference for certain procurements using federal funds. Contractor 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 (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award. For purposes of this section:

(1) "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.

(2) "Manufactured products" means 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.

**10. Procurement of Recovered Materials:** (applies only if the work involves the use of materials) (A) 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. (B) Information about this requirement, along with the list of EPA- designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensiveprocurement-guideline-cpg-program>. (C) The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

**11. Publications.** Any publications produced with funds from this award must display the following language: "This project [is being] [was] supported, in whole or in part, by federal award number [enter project FAIN] awarded to [name of Recipient] by the U.S. Department of the Treasury."

**12. Increasing Seat Belt Use in the United States.** Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Contractor is encouraged to adopt and enforce on-the-job seat belt policies and programs for your employees when operating company-owned, rented or personally owned vehicles.

**13. Reducing Text Messaging While Driving.** Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Contractor is encouraged to adopt and enforce policies that ban text messaging while driving, and establish workplace safety policies to decrease accidents caused by distracted drivers.



## **EXHIBIT A**

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# **REQUIREMENTS/COUNTY'S REQUEST FOR QUALIFICATIONS**



**HIDALGO COUNTY  
PROCUREMENT PACKET**

**REQUEST FOR QUALIFICATION**

**RFQ No.: 24-0003-02-23-11**

**PROFESSIONAL SERVICES POOLS -  
SURVEYING**

**Acceptance Due Date: February 23, 2024 at 3:00 pm**

Ignacio Amezcua MBA, CTCM, CTCD  
Hidalgo County Purchasing Director

**Project Contact Information:**

**Jasmin Cantu**, Contract Specialist III  
(956) 318-2626 Ext: 4854  
jasmin.cantu@co.hidalgo.tx.us

Hidalgo County  
REQUEST FOR QUALIFICATION  
Professional Services Pools - Surveying

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I.	INVITATION LETTER.....
II.	SUBMISSION DETAILS .....
III.	PROCUREMENT OVERVIEW .....
IV.	LEGAL NOTICE .....
V.	EVALUATION PROCEDURE .....
VI.	ELECTRONIC FIRM SUBMISSION DOCUMENTS .....

Attachments:

A - Requirements/Specifications

B - Areas of Specialization

C - Insurance Requirements (Professional Services)

D - COI Questionnaire

E - Vendor Acknowledgment and HUB Declaration

F - Certification Regarding Debarment

G - Title VI Appendices

H - 2 CFR 200

I - FHWA 1273

J - Proposer's Affidavit

K - Reference Form

# 1. INVITATION LETTER

## 1.1. Summary

RELEASE DATE: Saturday, February 10, 2024

**RE: HIDALGO COUNTY - REQUEST FOR QUALIFICATIONS**

**RFQ NO.:24-0003-02-23-11** –Professional Services Pools - Surveying

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. All times referenced in this procurement packet are Central Standard Time – CST.

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

Sincerely,

Ignacio Amezcua, MBA, CTCM, CTCD

Hidalgo County Purchasing Director

## 1.2. Contact Information

**Project Contact:**

**Hector Garcia**

Division Manager II - Construction

2802 S. Business Highway 281

Edinburg, TX 78539

Email: [hector.garcia1@co.hidalgo.tx.us](mailto:hector.garcia1@co.hidalgo.tx.us)

Phone:  [\(956\) 318-2626](tel:(956)318-2626) Ext: 4857

**Procurement Contact:**

**Jasmin Cantu**

Contract Specialist III

2802 S Bus HWY 281

Edinburg, TX 78539

Email: [jasmin.cantu@co.hidalgo.tx.us](mailto:jasmin.cantu@co.hidalgo.tx.us)

Phone:  [\(956\) 318-2626](tel:(956)318-2626) Ext: 4854

**Department:**

Hidalgo County

## 1.3. Timeline

<b>Release Project Date</b>	February 10, 2024
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<b>Question Submission Deadline</b>	February 13, 2024, 5:00pm
<b>Question Response Deadline</b>	February 15, 2024, 5:00pm
<b>Qualification Submission Deadline</b>	<p>February 23, 2024, 3:00pm (All times referenced in this procurement packet are Central Standard Time –CST)</p> <p>The proposal opening is open to the public. Proposal opening participants may attend the proposal opening in person at the Hidalgo County Purchasing Department (or designated location) or via a live stream (link below) or by calling in on the day of the event. Please be advised, public attendance at any in-person Proposal opening may be limited due to capacity and will be on a first-come-first-serve basis.</p> <p>Live stream: <a href="https://hidalgocounty.zoom.us/j/96464676754?pwd=K1hiY3YxN0xPem5pd2xZazYzWHF4UT09">https://hidalgocounty.zoom.us/j/96464676754?pwd=K1hiY3YxN0xPem5pd2xZazYzWHF4UT09</a></p> <p>Meeting ID: 964 6467 6754</p> <p>Passcode: 545411</p> <p>Dial by your location: +1 346 248 7799 US (Houston)</p> <p>To find your local number: <a href="https://hidalgocounty.zoom.us/u/abObUBYixl">https://hidalgocounty.zoom.us/u/abObUBYixl</a></p> <p>Join by SIP: <a href="mailto:96464676754@zoomcrc.com">96464676754@zoomcrc.com</a></p>

## 2. SUBMISSION DETAILS

### 2.1. SUBMISSION OPTIONS & REQUIREMENTS

Respondents have two (2) options for submitting a response. Respondents shall submit their response using one (1) of the following methods (**DO NOT** duplicate submittals by submitting both an electronic and hard copy response. Respondents shall select one only (1) method to respond):

- A. Submit responses electronically via the PORTAL: <https://procurement.opengov.com/portal/co-hidalgo-tx> on or before Friday, February 23, 2024, at 3:00 pm. **OR;**
- B. Submit one (1) hard copy and two (2) USBs in original PDF format via personal hand-delivery or delivery service on or Friday, February 23, 2024, at 3:00 pm.

Any Proposal received after this deadline will not be accepted and will be returned unopened to the sender.

### 2.2. HAND DELIVERED SUBMISSION

When hand delivering the packet, Proposer should make sure that the package is stamped with the date and time received by the Hidalgo County Purchasing staff.

#### **DELIVER TO:**

##### US Postal Mail Address:

- Ignacio Amezcua, MBA, CTCM, CTCD, Purchasing Director
- ATTN: Jasmin Cantu
- Hidalgo County Purchasing Department
- Administration Building
- 2812 S. Business Hwy 281
- Edinburg, Texas 78539

##### Physical Address:

- Ignacio Amezcua, MBA, CTCM, CTCD, Purchasing Director
- ATTN: Jasmin Cantu
- Hidalgo County Purchasing Department
- Administration Building
- 2802 S. Business Hwy. 281
- Edinburg, Texas 78539

#### **FIRM INSTRUCTIONS**

Responses to this procurement packet shall be formatted and organized in the following order for consistency and easy screening:

- All submissions must be typed, single-spaced, and printed one-sided on 8 ½” by 11” paper.
- One (1) hard copy, marked “ORIGINAL” and two (2) USBs in PDF format. The original document must be submitted with a Cover Page containing the information listed in the Submission Outline/Checklist, under the Submission Cover Page.
- The complete response 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 firm’s name and the RFQ number. Responses that are not identified with the RFQ number on the outside, will be at risk of rejection.

### **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. **For the hand delivery option, the solicitation packet can be found under the [#ATTACHMENTS](#) section:**

- A. Table of Contents
- B. Required Confirmations/Documents
  1. Legal Notice Declaration - **(Confirmation)**
  2. Areas of Specialization - **(Document)**
  3. Insurance Requirements
    - a. Proof of Insurance - **(Document)**
    - b. Insurance Requirement Acknowledgement - **(Confirmation)**
    - c. Project Requirements Acknowledgement - **(Confirmation)**
  4. Conflict of Interest Questionnaire
    - a. CIQ Form - Copy of County Clerk File with fee receipt (when applicable) - **(Document)**
  5. Vendor Acknowledgment and HUB Declaration
    - a. Vendor Acknowledgment - **(Confirmation)**
    - b. HUB Declaration - **(Document)**
  6. Certification Regarding Debarment
    - a. Signed Certification - **(Document)**
    - b. SAM.gov Registration Acknowledgement - **(Document)**

- c. Form 1295 - **(Document)**
7. Title VI Appendices
  - a. Title VI Appendices [A -E] - **(Confirmation)**
8. Required Contract Clauses For Contracts Under Federal Award
  - a. Byrd Anti-Lobbying Contract Clause - **(Document)**
  - b. 2 CFR 200 Certification - **(Document)**
9. FHWA 1273
  - a. FHWA 1273 - **(Confirmation)**
10. Proposer's Affidavit
  - a. Proposer's Affidavit - **(Document)**
11. References - **(Document)**
12. Addenda (when applicable; see Addenda under Legal Notice)
13. Company/Firm Response
  - a. Cover Sheet
    - i. Company Name, Company Address, Company Phone Number
    - ii. Project Name: Professional Services Pools - Surveying
    - iii. Procurement Number: 24-0003-02-23-11
    - iv. Opening Date: Friday, February 23, 2024
    - v. Opening Time: 3:00 pm
  - b. Section I: Understanding of The Project
  - c. Section II: Firm Information
    - i. Firm History
    - ii. Personnel and Staffing
    - iii. Proof of Licenses and Certifications
  - d. Section III: Firm Experience and Qualifications
    - i. Competency
    - ii. Experience and Recent Projects
    - iii. References
  - e. Section IV: Scope of Services

- i. List of Services
  - ii. Narrative
- f. Section V: Miscellaneous

**(Confirmation)** = A confirmation is required for this section.

**(Document)** = A document submission is required for this section.

### 2.3. ELECTRONIC SUBMISSION

Hidalgo County Purchasing Department will only accept electronic responses that are submitted via the PORTAL: <https://procurement.opengov.com/portal/co-hidalgo-tx>. The COUNTY will NOT accept telegraphic, emailed, nor responses submitted via facsimile.

\*When submitting a response electronically, the firm will be required to complete all the sections found in this solicitation in order for the submission to be valid.

### 3. 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 solicitation. Further, the Respondent is responsible for providing any and all relevant information necessary to submit a response. Failure to do so will be at the Respondent's risk and may result in rejection of the response 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 proposal package is complete.

#### 3.1. INTRODUCTION

Hidalgo County (hereinafter referred to as "COUNTY") is seeking qualified firms interested in providing comprehensive professional services as part of our Professional Services Pools throughout the identified term of the pool. Qualified Respondents may then be engaged from the pool to provide professional services on an "As Needed Basis" or on a "Project-Specific Basis". Sealed qualifications will be received for "Hidalgo County (including all funding sources, programs, and entities) Professional Services Pools - Surveying, in accordance with the requirements attached hereto as "**Requirements/Specifications**". Inclusion into the specified Pool is based on qualifications and other factors as herein set forth. The qualifications should address all requirements. Respondent may suggest substitutions of features which they feel would be in the best interest of COUNTY; however, a strong rationale must be presented for any deviation from the requirements. COUNTY reserves the right to reject the deviation and its effect on the overall qualification.

Hidalgo County is requiring all submitted qualifications are to remain firm for a minimum of ninety (90) days after the RFQ opening.

#### 3.2. Pre-Bid Meeting

If there will be a Pre-Bid meeting the information will be included in Section 1 – Invitation Letter/Timeline.

#### 3.3. AWARD

Hidalgo County anticipates accepting all qualified firms to our Pool. 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 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.

#### 3.4. TERM OF POOL

The term of this pool shall be for a period of five (5) years commencing on the date approved by the Commissioners Court or as designated. The information provided in this Request for Qualification

(hereinafter referred to as “RFQ”) is only to be used for the purpose of preparing a submission for the above-referenced pool.

### 3.5. SUBMISSION OPTIONS & REQUIREMENTS

Respondents have two (2) options for submitting a response and shall select only one (1) method to respond. Please see Section 2 – Submission Details above for submission options, procedures, and requirements. Any Proposal received after the provided deadline will not be accepted and will be returned unopened to the sender.

### 3.6. PROPOSAL OPENING STREAMING

Please find the proposal opening information included in Section 1 – Invitation Letter

### 3.7. HAND DELIVERED SUBMISSION

If Respondent chooses to hand deliver its submission, whether personally or via delivery service, it must follow the procedures and requirements set for in Section 2 – Submission Details above.

### 3.8. ELECTRONIC SUBMISSION

If Respondent chooses to submit its response electronically, it must follow the procedures and requirements set for in Section 2 – Submission Details above.

### 3.9. SIGNING OF SUBMISSION

In order to be considered, all submittals **must** be signed by an authorized representative of the firm. **For hardcopy submissions, please sign the original in blue ink and ensure the copy is clearly labeled. For electronic submissions, please ensure all appropriate certifications are marked.**

### 3.10. QUESTIONS AND ANSWERS

Questions must be submitted via the PORTAL'S Question and Answer Tab (Q&A) no later than Tuesday, February 13, 2024, at 5:00 pm. Responses to properly submitted questions will be published in the PORTAL and emailed to all planholders who are listed as a Follower in the PORTAL. Telephone inquiries will not be accepted.

### 3.11. RESTRICTIVE OR AMBIGUOUS REQUIREMENTS

It is the responsibility of the Proposer to review the procurement packet and to notify the Hidalgo County Purchasing Department if the requirements are formulated in a manner that would unnecessarily restrict competition or request clarification of any requirements that are ambiguous. Any such protest or question regarding the requirements or proposal procedures must be received in writing via the PORTAL'S Q&A Tab by the deadline stated for Questions and Answers.

### 3.12. COST OF SUBMISSION

Hidalgo County will not be liable for any costs incurred by the vendor in preparing a response to this procurement packet. Each Proposer acknowledges it is submitting a response 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 products or services will be purchased as a result of this solicitation and reserves the right to reject any and all submissions received. All responses and accompanying documentation will become the property of Hidalgo County.

### 3.13. WAIVING OF INFORMALITIES

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

### 3.14. NOTICE OF COMMUNICATION

***All communications by a vendor to the county, its officials, and department heads regarding this procurement shall be done through the Hidalgo County Purchasing Department.*** No vendor, its' representative, agent, or employee shall engage in private communication with a member of the Hidalgo County Commissioners Court or county department heads regarding any procurement of goods or services by the County from the date that 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 vendor outside of a posted meeting of the governing body, a regular meeting of a standing or appointed committee, or negotiation with a vendor which has been specifically authorized by the governing body.

## 4. 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. The Hidalgo County Purchasing Department webpage may be found at <https://www.hidalgocounty.us/143/Purchasing-Department>.

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.

### 4.1. 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 ninety (90) days after opening. Hidalgo County is not responsible for any missing, lost, or late submissions.

### 4.2. 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.

### 4.3. 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 Acknowledgment**" 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.

### 4.4. 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 Following the solicitation in the PORTAL, and are listed as a “Follower” (planholder) in the PORTAL.

#### 4.5. 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.

#### 4.6. AWARD

Hidalgo County reserves the right to award this contract on the basis determined on the Procurement Overview, and when applicable, listed on "**Company/Firm Response**", 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.

#### 4.7. 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:

**4.7.1 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.

**4.7.2 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.

**4.7.3 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**". Responses submitted without the required bond or cashier's checks may be deemed unresponsive, thus disqualified from participation.

**4.7.4 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.

**4.7.5 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.

**4.7.6 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](http://www.sam.gov) with their response.

**4.7.7 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.

**4.7.8 Disclosure of Conflict of Interest.**

**4.7.8.1 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.

**4.7.8.2 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](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.

**4.7.8.3 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. "**Proposer's Affidavit**" must be included in the response.

**4.7.8.4 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.

**4.7.8.5 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, must be filed with the Hidalgo County Clerk, located inside the Hidalgo County Courthouse no later than the seventh business day after the date the person becomes aware of facts that require the statement to be filed. Hidalgo County Clerk contact information may be found at <https://www.hidalgocounty.us/161/County-Clerks-Office>. **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.

**4.7.8.6 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 "**2 C.F.R. § 200**".

**4.7.9. 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.

**4.7.10 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.

**4.7.11 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, [ignacio.amezcua@co.hidalgo.tx.us](mailto:ignacio.amezcua@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.

#### 4.8. COMPLIANCE WITH FEDERAL, STATE, AND LOCAL LAWS (CONTINUED)

**4.8.1 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 "**HUB Declaration**".

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 sub-contractors 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.

**4.8.2 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.

**4.8.3 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).

**4.8.4 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.

**4.8.5 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. Offeror agrees to comply with Title VI as may be required. The Hidalgo County Title VI Nondiscrimination Plan may be found at <https://www.hidalgocounty.us/2071/Title-VINondiscrimination-Plan>.

## 4.9. CONTRACT OBLIGATION

Before a contract becomes binding on Hidalgo County or the Offeror, it must be awarded by the Hidalgo County Commissioners Court, signed by the Hidalgo County Judge, funds for it must be certified by the

Hidalgo County Auditor, and an official Hidalgo County Purchase Order must be issued for it by the Hidalgo County Purchasing Department. 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.

#### 4.10. 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.

#### 4.11. 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.

#### 4.12. 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.

#### 4.13. COUNTY APPROVED HOLIDAYS

The Offeror is advised that official County business will not be conducted on approved County holidays. The link of approved holidays can be found on: <https://www.hidalgocounty.us/115/County-Holidays>.

#### 4.14. 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.

#### **4.15. 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.

**4.15.1 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.

**4.15.2 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 "**2 C.F.R. § 200**". It is the County's intention to comply with FEMA requirements; therefore, any conflict in terms should be resolved as such.

#### **4.16. 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.

#### 4.17. 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.

#### 4.18. 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.

#### 4.19. 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.**

#### 4.20. 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.

#### 4.21. 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 "**Insurance Requirements**"). Prior to award, Hidalgo County must be listed as a Certificate Holder to the policies.

#### 4.22. 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.

#### 4.23. 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 respondents "**Submission**". 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.

#### 4.24. 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.

#### 4.25. 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.

#### 4.26. MINIMUM STANDARDS FOR RESPONSIBLE PROSPECTIVE RESPONDENTS

With their submitted response, the Offeror must affirmatively demonstrate their responsibility as listed on "**Requirements/Specifications**". A prospective respondent, by submitting a response, represents to County that it meets the requirements listed. Respondent is required to advise the County of any change to information provided in its submitted response.

#### 4.27. 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.

#### 4.28. 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.

#### 4.29. 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.

#### 4.30. 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.

#### 4.31. 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 to this procurement packet and/or on the Purchase Order as a "Deliver To:" address.

#### 4.32. 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.

#### 4.33. PROCEDURES FOR VENDOR PROTEST

Any potential Offeror has the right to protest a solicitation packet or contract award. Details for these procedures can be found on our County website: <https://www.hidalgocounty.us/143/Purchasing-Department>. The Vendor also understands that an awarded contract may immediately become void if the County determines that a lack of compliance with applicable policies and/or statutes has occurred at any time, whether in the procurement process, or after award.

#### 4.34. PROCUREMENT PACKET FORM COMPLETION

When submitting procurement packet response, Respondents must follow the procedures and requirements provided within the procurement packet, including, but not limited to those found in the Invitation Letter, Submission Details and Procurement Overview. An authorized representative of the Offeror should complete all necessary response documentation. **Failure to complete required forms or provide required information and/or to follow procedures and/or requirements may be cause to reject the entire response.**

#### 4.35. PROCUREMENT PACKET SUBMISSION

**4.35.1** Offeror must submit all completed responses in accordance with the provisions, procedures and requirements provided within the procurement packet, including, but not limited to those found in the Invitation Letter, Submission Details and Procurement Overview by the date and time indicated therein. **Failure to follow packet submission requirements may be cause to reject the entire response. Late submissions will not be accepted for any reason.**

**4.35.2 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.

#### 4.36. 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 Acknowledgment**".

#### 4.37. 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 "**Company/Firm Response**". 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.

#### 4.38. 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.

#### 4.39. 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.

#### 4.40. REFERENCES

If applicable, unless otherwise indicated, 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. If Offeror has not had a project cancelled, then please indicate so.** 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**". 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.If Offeror has not had a project cancelled, then please indicate so.

#### 4.41. 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 according to the instructions contained within this procurement packet.

#### 4.42. 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.

#### 4.43. 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.

#### 4.44. 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.

#### 4.45. 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.

#### 4.46. TERM OF CONTRACTS

If the contract is intended to cover a specific time period, the term will be specified in the **Procurement Overview**. 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.

#### 4.47. 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.

#### 4.48. 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.

#### 4.49. 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.

#### 4.50. 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.

#### 4.51. 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.

#### 4.52. 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.

## **5. EVALUATION PROCEDURE**

**It is Hidalgo County's intent to comply with the requirements of Chapter 262 of the Texas Local Government Code and the Professional Services Procurement Act, Chapter 2254 of the Texas Government Code. It will select the most highly qualified provider of the professional service on the basis of demonstrated competence and qualifications and then attempt to negotiate with that provider a contract at a fair and reasonable price.**

### **POOL ACCEPTANCE**

It is Hidalgo County's intention that all responses that meet the requirements listed within this procurement packet will be accepted in the respective professional service pool.

### **AWARD PROTOCOL**

After inclusion into the respective professional service pool, a firm can be selected from the approved Pool for 1) an On-Call Agreement, or 2) a Project Specific Agreement; regardless of the option, once a project has been identified and it is determined that the services specific to this procurement packet are required, approval to seek engagement for Professional Services is requested from the Hidalgo County Commissioners Court. The following protocol and procedures are utilized:

1. Hidalgo County Commissioners Court, Elected Official, or User Department in need of the Professional Service will nominate, at the minimum, 3 firms. The firms selected must be able to complete the project requested, and if specializations are available, those specialized firms should be considered for nomination first.
2. Hidalgo County Commissioners' Court, Elected Official, or User Department will select the Evaluation Committee.
3. The Evaluation Committee will review, score and evaluate the Statement of Qualifications received in this response.
4. A Scoring Grid will be presented to Hidalgo County Commissioners Court for the purpose of Ranking and Approval for the Hidalgo County Purchasing Department to enter into negotiations with the number one (1) ranked firm.

### **EVALUATION CRITERIA**

Award shall be made to the responsible firm whose proposal is determined to be the best-evaluated offer resulting from negotiations and taking into consideration all aspects of proposal impact items and the "**Evaluation Criteria**".

- Professional qualifications and experience of the firm and its staff with a minimum of predetermined number of years of relevant experience and demonstrated success in providing the services requested in this solicitation;
- Ability to commit resources and turnaround time for services requested;
- Pricing;
- Experience with other clients of similar size to Hidalgo County and government entities;

- Firm's professional reputation for integrity and compliance with state and federal law, including having the appropriate license to do business in Texas;
- Past performance history with Hidalgo County (if applicable);
- Experience based on references submitted with the firm's proposal; and
- Overall quality of the firm's proposal.

Submission of a proposal implies the firm's acceptance of the evaluation criteria and the firm's recognition that subjective judgments must be made by the Evaluation Committee. Pricing will be taken into consideration AFTER evaluation as part of the process in compliance with Chapter 2254 of the Texas Government Code.

### **EVALUATION PROCESS**

All proposals will be examined by an Evaluation Committee consisting of various Hidalgo County personnel and Hidalgo County Purchasing on a 100-point system.

Proposals 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 proposal 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 information provided. Accuracy and completeness are essential. Omissions, ambiguous and equivocal statements may be construed against the proposer. The proposal response may be incorporated into any contract which results from this procurement packet, and firms are cautioned not to make claims or statements it is not prepared to commit to contractually. Failure of the firm to meet such claims will result in a requirement that the firm provides resources necessary to meet submitted claims, without extending an additional cost to Hidalgo County.

Hidalgo County Purchasing Department may initiate discussions with selected firms; however, firms may not initiate discussions. Firms shall not contact any Hidalgo County personnel during the procurement process without the expressed permission from the Hidalgo County Purchasing Department. Hidalgo County Purchasing Department may disqualify any firm that has made site visits, 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 firm relating to this solicitation.

Selected firms may/will be expected to make a presentation/product demonstration to an evaluation committee. In addition to a presentation, visits by the Evaluation Committee to representative firm client sites may be conducted where the proposed solution can be demonstrated in a production environment. Proposals, firm presentations, and product/service evaluations may develop into negotiating sessions with the firm(s) as selected by the Evaluation Committee and approved by Hidalgo County Commissioners Court.

### **NEGOTIATION PROCESS**

The Purchasing Department will commence negotiations with the Number One (1) ranked firm, as approved by Hidalgo County Commissioners Court by asking the selected firm to submit a Scope of Service, including their fees. Hidalgo County expects to conduct negotiations with the firm's representatives authorized to contractually obligate the firm with an offer. The negotiated contract includes a Best and Final Offer with the successful firm will be presented to Commissioners' Court for consideration and approval of the award of the contract. If the firm is unable to agree to contract terms and conditions, Hidalgo County reserves the right to cease negotiations with that firm and initiate negotiations with another firm.

## 6. ELECTRONIC FIRM SUBMISSION DOCUMENTS

\*Firms must complete this section if their submission will be electronic.

### 6.1. I confirm that I will be submitting my response electronically.\*

Please confirm and proceed with the electronic submission requirements.

Please confirm

\*Response required

### 6.2. LEGAL NOTICE DECLARATION\*

**TO:** Ignacio Amezcua, MBA, CTCM, CTCD, Purchasing Director

**ATTN:** Jasmin Cantu, Contract Specialist III

Hidalgo County Administration Building/Purchasing Department

2802 S. Business Hwy. 281

Edinburg, Texas 78539

**RE:** 24-0003-02-23-11 - Professional Services Pools - Surveying

By providing a response 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. We, the undersigned respondent, further agree, upon acceptance of its response to be a member of the Pools of Professional Services and further execute supplemental project-specific contracts with the County as needed. 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 response are incorporated into and made a part of any resulting agreement.

We agree that this response 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.

Please confirm

\*Response required

### 6.3. REQUIREMENTS/SPECIFICATIONS\*

Refer to "**Requirements/Specifications**" in the [#ATTACHMENTS](#) section. Confirm that you have read, understood, and agree with the "**Requirement/Specifications**".

Please confirm

\*Response required

### 6.4. AREAS OF SPECIALIZATION\*

Refer to "**Areas of Specialization**" in the [#ATTACHMENTS](#) section. Please download the fillable documents, complete, and upload.

\*Response required

### 6.5. PROOF OF INSURANCE\*

#### **Insurance Requirements**

#### **Professional Services**

#### **(i.e...Engineers, Architects, Appraisers & Surveyors)**

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.

*Bidder shall obtain and maintain any and all other insurances which may be necessary in providing the good/service applicable to this procurement or are otherwise required by law. Any and all insurance policies shall be in amounts prescribed by law or otherwise specified by the County, but in no event less than the minimum amounts prescribed by law.*

#### **Additional Insurance Requirements:**

- A. Bidder shall furnish to County certificate(s) of insurance, and all renewals throughout the duration of the Project, issued by the insurer that such insurance is in full force and effect.

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

		<b>CERTIFICATE OF LIABILITY INSURANCE</b>		DATE (MM/DD/YYYY)	
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.):	
		E-MAIL:			
		ADDRESS:			
		INSURER(S) AFFORDING COVERAGE		NAIC #	
INSURED		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.					
TYPE OF INSURANCE	ADDL. SUBR. INSR. WVR	POLICY NUMBER	POLICY EFF. (MM/DD/YYYY)	POLICY EXPI. (MM/DD/YYYY)	LIMITS
<b>GENERAL LIABILITY</b>					
COMMERCIAL GENERAL LIABILITY					EACH OCCURRENCE \$
CLAIMS-MADE <input type="checkbox"/> OCCUR <input type="checkbox"/>					DAMAGE TO RENTED PREMISES (EA OCCURRENCE) \$
					MED EXP (Any one person) \$
					PERSONAL & ADV INJURY \$
					GENERAL AGGREGATE \$
					PRODUCTS - COMP/OP AGG \$
GENL AGGREGATE LIMIT APPLIED PER					
POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC <input type="checkbox"/>					\$
<b>AUTOMOBILE LIABILITY</b>					
ANY AUTO					COMBINED SINGLE LIMIT (EA ACCIDENT) \$
ALL OWNED AUTOS					BODILY INJURY (Per person) \$
HIRED AUTOS					BODILY INJURY (Per accident) \$
					PROPERTY DAMAGE (Per accident) \$
					\$
UMBRELLA LIAB					EACH OCCURRENCE \$
EXCESS LIAB					AGGREGATE \$
					\$
					\$
					WC STATU-TORY LIMITS
					OTH-ER
					E.L. EACH ACCIDENT \$
					E.L. DISEASE - EA EMPLOYEE \$
					E.L. DISEASE - POLICY LIMIT \$
WORKERS COMPENSATION AND EMPLOYERS' LIABILITY					
ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)					
If yes, describe under DESCRIPTION OF OPERATIONS below					
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		

ACORD 25 (2010/05)

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Please provide or upload your Certificate of Liability Insurance depending on your method of submission.

\*Response required

#### 6.6. INSURANCE REQUIREMENT ACKNOWLEDGEMENT\*

I, an authorized representative for of my company, the company submitting this response, 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.

#### **Notice to Bidder:**

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.

Please confirm

\*Response required

#### 6.7. PROJECT REQUIREMENTS ACKNOWLEDGMENT\*

This is to certify that I, an authorized representative of my company, 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** (upload copies here) 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.

Please confirm

\*Response required

#### 6.8. CONFLICT OF INTEREST QUESTIONNAIRE\*

Please download the below documents, complete, and upload.

- [COI Questionnaire.pdf](#)

\*Response required

#### 6.9. VENDOR ACKNOWLEDGMENT\*

**Please read and acknowledge the required steps necessary to do business with Hidalgo County:**

##### **Step 1:**

**OpenGov** will now serve as the primary source for all Hidalgo County solicitation postings, electronic bidding, and contract management. Any reliance on other information or sources not directly downloaded from OpenGov may result in a submission that is not in compliance.

**Link can be found below:**

[-https://procurement.opengov.com/portal/co-hidalgo-tx](https://procurement.opengov.com/portal/co-hidalgo-tx)

##### **Step 2:**

**ConsiderMe (Vendor Enrollment Solution)** is an innovative tool that facilitates the needs of Hidalgo County to secure qualified vendors. Local, state, and national vendors can apply using the vendor registration form in the link below.

[-https://www.hidalgocounty.us/2912/Potential-Vendors-ConsiderMe](https://www.hidalgocounty.us/2912/Potential-Vendors-ConsiderMe)

\*The Vendor Registration Form does not guarantee a contract or agreement, however, it does guarantee your service or goods will be added to the list of potential vendors available to Hidalgo County.

Please confirm

\*Response required

#### 6.10. HUB DECLARATION\*

Please download the below documents, complete, and upload.

- [HUB Declaration.pdf](#)

\*Response required

#### 6.11. CERTIFICATION REGARDING DEBARMENT\*

Please download the below documents, complete, and upload.

- [Certification Regarding Deb...](#)

\*Response required

#### 6.12. [SAM.GOV REGISTRATION\\*](#)

Please enter your company's Legal Name and/or dba Name

\*Response required

#### 6.13. [FORM 1295\\*](#)

Please provide a Form 1295.

- Reference Professional Services Pools - Surveying (24-0003) on section 3 of the form.
- Be sure to complete section 6 of the form, in order to be valid.

\*Response required

#### 6.14. [Title VI Appendices - \(Please confirm that you have read, understood and agree\)\\*](#)

##### 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 Nondiscrimination 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 Nondiscrimination covenants, **COUNTY OF HIDALGO** will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.\*

C. With respect to a deed, in the event of breach of any of the above 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).

Please confirm

\*Response required

#### 6.15. REQUIRED CONTRACT CLAUSES FOR NON-FEDERAL ENTITY CONTRACTS UNDER FEDERAL AWARDS\*

Please download the below documents, complete, and upload.

- [2\\_CFR\\_200.pdf](#)

\*Response required

#### 6.16. FHWA 1273\*

Refer to "**FHWA 1273**" in the [#ATTACHMENTS](#) section. Confirm that you have read, understood and agree with "**FHWA 1273**."

Please confirm

\*Response required

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

Please download the below documents, complete, and upload.

- [Proposer's Affidavit.pdf](#)

\*Response required

6.18. REFERENCE FORM\*

Please download the below documents, complete, and upload.

- [Reference Form.pdf](#)

\*Response required

6.19. COMPANY/FIRM RESPONSE\*

Please upload your response to this RFQ as requested in *Requirements/Specifications*

\*Response required



## **EXHIBIT B**

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**SERVICES TO BE PROVIDED BY THE  
PROFESSIONAL SERVICE PROVIDER**

## **Exhibit “C”**

### **SCOPE OF SERVICES TO BE PROVIDE BY THE SURVEYOR**

1. Boundary Survey.
2. Identify existing fences/features along the subject boundary.
3. Set 2 Benchmarks.
4. 100' x 100' Grid.
5. Locate any visible utilities, power poles, meters, etc., and contact 811.
6. Locating and/or setting monumentation for the subject boundary.
7. Existing easements available through the boundary research process.

The submittal will include all items stated below:

- (1) Signed and sealed Survey Plat with Metes and Bounds.
- (1) CAD File with Design Topography.

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**SAMES, Inc.**

Engineering Firm Reg # 10602    Surveying Firm Reg # 101416-00  
200 S. 10<sup>th</sup> Street, Suite 1500, McAllen, Texas 78501    Phone: (956) 702-8880    Fax: (956) 702-8883



## **EXHIBIT C**

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**CONTRACT RATES/COST PROPOSAL**

EXHIBIT “E”  
**Contract Rates**

<b>PRINCIPAL</b>	<b>\$200/hr</b>
<b>REGISTERED PROFESSIONAL LAND SURVEYOR (RPLS)</b>	<b>\$150/hr</b>
<b>PROJECT MANAGER/ SIT</b>	<b>\$145/hr</b>
<b>PROJECT SURVEYOR/ GRADUATE ENGINEER</b>	<b>\$85/hr</b>
<b>CAD MANAGER / TECH III</b>	<b>\$75/hr</b>
<b>CAD TECH II</b>	<b>\$65/hr</b>
<b>CAD TECH I</b>	<b>\$55/hr</b>
<b>3-SURVEY CREW</b>	<b>\$220/hr</b>
<b>2-MAN SURVEY CREW</b>	<b>\$165/hr</b>
<b>CLERICAL/ ADMIN</b>	<b>\$55/hr</b>

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## **EXHIBIT D**

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**CERTIFICATES OF INSURANCE**