

**SPECIFICATIONS
AND
FORMS OF CONTRACT, BONDS AND BID PROPOSALS**

FOR

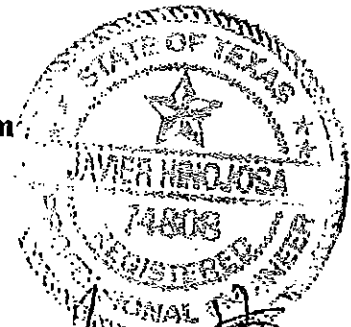
**HIDALGO COUNTY - URBAN COUNTY PROGRAM
2021 DONNA STREET IMPROVEMENTS
(PURCHASE OF MATERIALS ONLY)**

**IN
DONNA, TEXAS**

BID NO. 5021-15-0311-5000-0000-00-UCP-ET

Prepared By:

**JAVIER HINOJOSA ENGINEERING
416 E. DOVE AVENUE
McALLEN, TEXAS 78504
(956) 668-1588
e-mail: javier@javierhinojosaeng.com
TBPE FIRM NO. F-1295**




J. Hinojosa
10/19/22

GENERAL REQUEST FOR BID (RFB) CHECKLIST
HIDALGO COUNTY - URBAN COUNTY PROGRAM
"2021 Donna Street Improvements (Purchase of Materials Only)"
Bid No: 5021-15-0311-5000-0000-00-UCP-ET

- Request for Bid Letter
(Vendor information only, do not include with sealed bid)
- Request for Bid Legal Notice, consisting of 12 pages.
(Vendor information only, do not include with sealed bid)
- Appendix "B" Bid Page consisting of 3 pages
(Must be submitted as part of sealed bid)
- ✓ Appendix "C" Insurance Requirements consisting of 2 pages
(Must be submitted as part of sealed bid) see additional information of Appendix "C")
- ✓ Appendix "D" CIQ Conflict of Interest Questionnaire, consisting of D 1 2 page
(Must be submitted as part of sealed bid)
- ✓ W-9 form consisting of 1 page
(Must be submitted as part of sealed bid)
- Draft Construction Contract consisting of 2 pages
(Vendor information only, do not include with sealed bid)
- ✓ Certification Regarding Debarment 3 page
(Must be submitted as part of sealed bid)
- ✓ Non-Collusion Affidavit 1 Pages
(Must be submitted as part of sealed bid)
- Section 3 Plan & Appendices _____ pages
(Vendor information only, do not include with sealed bid)
- HB 1295 form 1 pages
(Must be submitted as part of sealed bid)

The above-mentioned items are found in the Request for Bid (RFB) packet that is attached herewith. Should you find that any of the items are not attached in its entirety please contact the Urban County Program Coordinator at (956) 787-8127, for missing documentation. The Urban County Program Coordinator will forward information either through facsimile or e-mail.

Thank you,



Patricia R. Avila, Director
Urban County Program

Date

10/12/2022

November 2, 2022

RE: ADDENDUM NO.1
Bid No.: 5021-15-0311-5000-0000-00-UCP-ET
Proposal: 2021 Donna Street Improvements
(Purchase of Materials Only)

Dear Gentlemen:

Attached you will find ADDENDUM NO. 1, page 1 of 1 in connection with Hidalgo County-Urban County Program – request for proposal for “2021 Donna Street Improvements (Purchase of Materials Only)”

Please add ADDENDUM NO. 1 to your bid packet to permit your company to submit a complete bid. See original bid packet LEGAL NOTICE Page 1 Item 4.

Acknowledge receipt of ADDENDUM NO. 1 by signing and returning this notice no later than Friday, November 4, 2022 at 5:00 P.M. via e-mail (javier@juvierhinojosaeng.com). If you do not receive all 5 (five) pages of ADDENDUM NO. 1, please notify us immediately at (956) 668-1588.

Please be advised that this ADDENDUM NO. 1 will complete your bid packet for “2021 Donna Street Improvements (Purchase of Materials Only)”

Thank you for your prompt attention to this matter.



Patricio R. Avila, UCP Director

BY: Brandon Henry Frontera Materials

ADDENDUM NO. 1
ACKNOWLEDGMENT OF RECEIPT

Enclosures

ADDENDUM NO. 1

November 2, 2022

Project No.: 5021-15-0311-5000-0000-00-UCP-ET

Proposed Bid Opening Date: November 9, 2022

Proposal: "2021 Donna Street Improvements (Purchase of Materials Only)"

As per questions and answers posed at the Pre-Bid Conference on November 2, 2022, please let this addendum serve as a FORMAL NOTICE to all interested parties that requested bid packets for project No. 5021-15-0311-5000-0000-00-UCP-ET that the following changes be made a part of your bid packet.

1. Please note that a Bid Bond will not be required for this project.
2. All hauling and delivery of materials will be the responsibility of the provider of the materials. The Vendor will coordinate all deliveries with the City of Donna to the respective streets within the City of Donna.
3. Replace Appendix "B" -- Bid Page with the attached new Appendix "B" which revises the bid items.

All RFP sealed envelopes shall be identified with the correct project No.: 5021-15-0311-5000-0000-00-UCP-ET

I, Brandon Henry, acknowledge receipt of ADDENDUM NO. 1 dated, November 2, 2022 for 5021-15-0311-5000-0000-00-UCP-ET - "2021 Donna Street Improvements (Purchase of Materials Only)"

Brandon Henry

11/3/22

Printed Bidder Name

Date

**NOTE: PLEASE SUBMIT THIS ORIGINAL
ADDENDUM WITH YOUR PROPOSAL
PACKET**

APPENDIX "B"

BID PAGE

Hidalgo County – Urban County Program
2021 DONNA STREET IMPROVEMENTS
(PURCHASE OF MATERIALS ONLY)
Bid No.: 5021-15-0311-5000-0000-00-UCP-ET

BID PRICE (FLEXIBLE BASE): \$ \$18.79 Per Ton

BID PRICE (HOT MIX ASPHALT): \$ \$88.98 Per Ton

BIDDER/COMPANY NAME: Frontera Materials

ADDRESS: P.O Box 1449

CITY/STATE/ZIP CODE: Elsa TX 78543

PHONE & FAX NO.'S: 956-316-8951

CELLULAR #: 956-358-2800

UEI #: Duns #195942313

AUTHORIZED SIGNATURE: 

PRINTED NAME: Eddie Forshage III

TITLE: President

EMAIL ADDRESS: brandon.henry@fmitex.com

ADDENDUM NO. 1

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

BID FOR UNIT PRICE CONTRACTS

PLACE Hidalgo County Urban County Program

DATE 11/3/22

PROJECT NO. 5021-15-0311-5000-0000-00-UCP-ET

Proposal of Frontera Material Inc. (hereinafter called "Bidder") a corporation/a partnership, or an individual doing business as: Corporation

TO the City of Donna (hereinafter called "Owner")

Gentlemen:

The Bidder, in compliance with your invitation for bids for the purchase of materials for the 2021 Donna Street Improvements having examined the plans and specifications with related documents and the site of the proposed work, and being familiar with all of the conditions surrounding the construction of the proposed project including the availability of materials and labor, hereby proposes to furnish all labor, materials, and supplies; and to construct the project in accordance with the Contract Documents, within the time set forth therein, and at the prices stated below. These prices are to cover all expenses incurred in performing the work required under the Contract Documents, of which this proposal is part.

Bidder hereby agrees to commence work under this contract on or about date to be specified in written "Notice to Proceed" of the owner and to fully complete the project within 90 consecutive calendar days thereafter as stipulated in the specifications. Bidder further agrees to pay as liquidated damages the sum of \$250.00 for each consecutive calendar day thereafter as herein after provided in Paragraph 19 of the General Conditions.

Bidder agrees to perform all of the _____ work described in the specifications and shown on plans, for the following unit prices:

Item No.	Estimated Quantity	Description	Unit Price (each)	Total
A. Champion Avenue Paving Improvements				
1.	2920 TONS	Type "F", Grade 3 Flex Base (Material Only)	_____ (Dollars & Cents) (\$ 18.79 Per Ton)	_____ (Dollars & Cents) (\$ 54,866.80)
2.	1265 TONS	Type "D" Hot Mix Asphalt (Material Only)	_____ (Dollars & Cents) (\$ 88.98 Per Ton)	_____ (Dollars & Cents) (\$ 112,559.70)

Subtotal Champion Avenue (Item A): \$ 167,426.50

APPENDIX "C"

Insurance Requirements

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

1. A One Million Dollar (\$1,000,000.00) Comprehensive General Liability insurance policy providing additional coverage to all underlying liabilities of County.
2. Automobile liability insurance policy with limits of at least Two Hundred Thousand Dollars (\$250,000.00) per person and Five Hundred Thousand Dollars (\$500,000.00) per occurrence. Coverage should include injury to or death of persons and property damage claims with limits up to Five Hundred Thousand (\$500,000.00) arising out of the services provided to County hereunder.
3. Uninsured/Underinsured motorist coverage in an amount equal to the bodily injury limits set forth immediately above;
4. 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.

Certificates of insurance naming Hidalgo County Urban County Program as an additional insured shall be submitted to UCP for approval prior to any services being performed by Contractor. 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 UCP prior to the cancellation of any such coverage on the termination date, or otherwise. 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 adequate replacement coverage is provided to UCP. If replacement coverage is not provided within thirty (30) days following suspension of the Contract, this Contract shall automatically terminate.

Insurance Requirement Acknowledgment

I, Eddie Forshage III, authorized representative for Frontera Materials,
Company Name

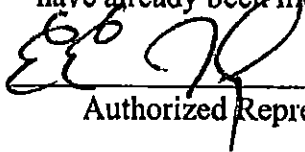
hereby acknowledge receipt of the County's required insurance limits. Said requirements:

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

Automobile Liability: \$ _____ General Liability: \$ _____

Worker's Compensation: \$ _____

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



Authorized Representative

11/3/22
Date

Notice to Bidder:

A certificate of insurance for the required insurance limits shall be provided to the Urban County Program Coordinator in order to qualify for award of bid and to execute a contract between your Company and the County.

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

THIS FORM MUST ACCOMPANY BID PACKET

PROJECT REQUIREMENTS ACKNOWLEDGMENT

This is to certify that Frontera Materials, possess all of the APPLICABLE:
Name of Company


1. Licenses:
2. Bonds:
3. Certificates:
4. Permits:
5. Other: _____

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

* Any licenses, bonds, 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 or may result in the disqualification of your bid.

Eddie Forshage III - President

Name & Title


Authorized Signature

11/3/22

Date

Frontera Materials

Company Name

P.O Box 1449 Elsa TX 78543

Address

956-316-8951

Phone Number

brandon.henry@fmltex.com

Email Address



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
08/24/2022

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 have ADDITIONAL INSURED provisions or 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 McAfee Insurance Agency P. O. Box 825 321 Second Street Mercedes TX 78570	CONTACT NAME: Consuelo Cavazos, CISR PHONE (A/C, No, Ext): (958) 565-2481 FAX (A/C, No): (956) 565-2733 E-MAIL ADDRESS: consuelo@mcafeeagency.com														
INSURED Frontera Materials, Inc. P O Box 1440 Elsa TX 78543-1449	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">INSURER(S) AFFORDING COVERAGE</th> <th style="text-align: left;">NAIC #</th> </tr> </thead> <tbody> <tr> <td>INSURER A: Phoenix Insurance Co.</td> <td></td> </tr> <tr> <td>INSURER B: The Travelers Indemnity Company of America</td> <td></td> </tr> <tr> <td>INSURER C: Travelers Property Casualty Co. of America</td> <td></td> </tr> <tr> <td>INSURER D: Texas Mutual Ins. Co.</td> <td></td> </tr> <tr> <td>INSURER E: The Travelers Lloyds Insurance Co.</td> <td>41262</td> </tr> <tr> <td>INSURER F:</td> <td></td> </tr> </tbody> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A: Phoenix Insurance Co.		INSURER B: The Travelers Indemnity Company of America		INSURER C: Travelers Property Casualty Co. of America		INSURER D: Texas Mutual Ins. Co.		INSURER E: The Travelers Lloyds Insurance Co.	41262	INSURER F:	
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INSURER E: The Travelers Lloyds Insurance Co.	41262														
INSURER F:															

COVERAGES **CERTIFICATE NUMBER:** 2022-2023 **REVISION NUMBER:**

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

INSR LTR	TYPE OF INSURANCE	ADDITIONAL SUBR INSD	WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN L AGGREGATE LIMIT APPLIES PER <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER	Y		Y-860-1C405765-PHX-22	09/01/2022	09/01/2023	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 Employee Benefits \$ 1,000,000
B	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS NOT-OWNED <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> AUTOS ONLY			BA-4N178852-22-14-G	09/01/2022	09/01/2023	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
C	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			CUP-6J119172-22-14	09/01/2022	09/01/2023	EACH OCCURRENCE \$ 2,000,000 AGGREGATE \$ 2,000,000
D	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR-PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory In NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	0002019620	09/01/2022	09/01/2023	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E L EACH ACCIDENT \$ 1,000,000 E L DISEASE - EA EMPLOYEE \$ 1,000,000 E L DISEASE - POLICY LIMIT \$ 1,000,000
E	Inland Marine/Contractors Equipment			QT-660-7T320380-TLC-22	09/01/2022	09/01/2023	Equipment Leased or Rented from Others \$ 100,000 Deductible \$2,500

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

CERTIFICATE HOLDER Hidalgo County-Urban County Program 1916 Tesoro Street Pharr TX 78516	CANCELLATION 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
--	--



APPENDIX D

Conflict of Interest Questionnaire

“CIQ”

URBAN COUNTY PROGRAM CONTRACT SIGNATURE ROUTING SLIP

PLEASE ROUTE FOR SIGNATURES IN ORDER.

<input type="checkbox"/>	CONTRACT AGENT/REPRESENTATIVE
<input type="checkbox"/>	UCP DIRECTOR: P.R. Avila
<input checked="" type="checkbox"/>	COURT ADMINISTRATOR : Monica Salinas
<input checked="" type="checkbox"/>	DISTRICT ATTORNEY: Victor M. Garza
<input checked="" type="checkbox"/>	COUNTY JUDGE: Richard F. Cortez
<input checked="" type="checkbox"/>	COUNTY CLERK: Arturo Guajardo, Jr.
<input type="checkbox"/>	EXECUTIVE OFFICE: Isaac Sulemana

ACTION REQUIRED

<input checked="" type="checkbox"/>	AGENDA APPROVAL STAMP	<input type="checkbox"/>
<input checked="" type="checkbox"/>	REQUIRED SIGNATURES AS POSTED	<input type="checkbox"/>

PRIORITY

<input type="checkbox"/>	IMMEDIATE ATTENTION	<input checked="" type="checkbox"/>	AS SOON AS POSSIBLE
<input type="checkbox"/>	DUE BY:	<input type="checkbox"/>	AT YOUR CONVINIENCE

COMMENTS

ATTACHED PLEASE FIND UCP DOCUMENTS THAT REQUIRE SIGNATURES

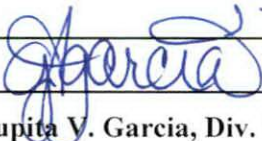
PLEASE SIGN AND ROUTE IN ORDER AS CHECKED OFF.

AFTER FINAL SIGNATURE FROM COUNTY CLERK, PLEASE CALL UCP, EXT. 2237

LUPITA V. GARCIA, UCP COORDINATOR III. THANK YOU!

THE FOLLOWING ARE INCLUDED:

2 Material Purchase Contract



FROM: Lupita V. Garcia, Div. Manager II, CDBG DATE:

1/6/2023

AI-88671

Urban County 13. C.

CC REGULAR AGENDA SPECIAL MTG

Meeting Date: 12/13/2022

Submitted For: Maritsa Meza, URBAN COUNTY **Submitted By:** Maritsa Meza, URBAN COUNTY

Department: URBAN COUNTY

CAPTION

“Subject to Compliance with HB 1295”, the Urban County Program is requesting approval to purchase materials from Frontera Materials, Inc for the City of Donna Street Improvements Project in the amount of \$318,692.50. UCP Fiscal Years 30, 33, 34 & 35 (2017, 2020, 2021 & 2022) City of Donna Street Improvements funds will be utilized.

BACKGROUND

Sealed bids were requested, received and reviewed. The lowest responsible bid was received from Frontera Materials, Inc. The materials will be utilized by the City of Donna for the paving of various streets within the City of Donna. Price Bid Tabulation, letter of recommendation from Javier Hinojosa Engineering along with Contract and Exhibits are attached for your review.

Funding:

Vendor: Frontera Materials, Inc.

Purchase Amount: \$ 318,692.50

Funds Available :	\$ 5,869.30	2017 Donna Street Improvements
	\$ 53,212.55	2020 Donna Street Improvements
	<u>\$ 146,866.93</u>	<u>2021 Donna Street Improvements</u>
	\$ 239,515.00	2022 Donna Street Improvements

Fiscal Impact

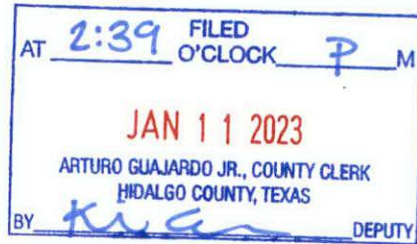
Attachments

Backup
DA's Approval

Form Review

Inbox	Reviewed By	Date
Budget & Management	Veronica Ortiz	12/07/2022 09:29 AM
Final Approval	Monica Salinas	12/09/2022 06:22 PM
Form Started By: Maritsa Meza		Started On: 12/05/2022 10:47 AM
Final Approval Date: 12/09/2022		

STATE OF TEXAS §
§
COUNTY OF HIDALGO §



**REQUIREMENTS AGREEMENT
5021-15-0311-5000-0000-UCP-ET**

THIS AGREEMENT (the "Agreement") is entered into effective the 13th day of December 2022, by and between Frontera Material Inc. ("Seller" or "Company") and **COUNTY OF HIDALGO** ("County").

WHEREAS, County has solicited bids for the supply of required "Flexible Base Type F, Grade 3 (TON) & HMAC TYPE D (TON)" for Hidalgo County (on an as needed basis) (the "Products"), as further described in the Request for Bid (RFB) Procurement Packet, which is attached hereto as Exhibit "A" and incorporated herein by reference for all purposes (the "RFB"); and

WHEREAS, Seller has submitted a bid to supply County's requirements in accordance with the specifications as bid, a copy of Seller's Bid being attached hereto as Exhibit "B", and incorporated herein for all purposes; and

WHEREAS, County has determined that Seller has submitted the lowest and best bid to meet County's requirements for the Products, as herein after described.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. **Term.** County agrees to purchase from Seller, and Seller agrees to sell and deliver to County, all of the Products listed on Exhibit "B" that County may require for use by County in Hidalgo County projects. **This Contract shall commence on December 13, 2022 and expire on December 12, 2023**, and may be extended with the County's sole discretion for an additional one (1) year period and it is agreed that the Products will meet the Specifications in the Request for Bids (RFB) Procurement Packet set forth in Exhibit "A" hereto. County reserves the right to continue this bid for an additional sixty (60) day grace period, under the same rates, terms, and conditions for the unforeseen delay in award of new bid for the next contract term.

2. **Product Delivery.** When County determines that it needs a quantity of the Products to be delivered, it will, according to its Purchasing Policies, complete and submit to Seller a Purchase Order describing the type and quantity of the Products required. The Products are to be delivered by Seller FOB to the location in Hidalgo County specified by County in its Purchase Order.

3. **Consideration.** County agrees to pay Seller for each Purchase Order based on the prices set out in Exhibit "B". Seller shall render invoices for each Purchase Order, and the invoices shall be paid by County in accordance with the Texas Prompt Payment Act, Tex. Govt. Code Ch. 2251.

4. **License.** As a condition of this Agreement, Seller shall hold and maintain throughout the term of this Agreement all licenses and permits required, or which may be required by any authority, including the State of Texas, during the term hereof to provide the Services. Seller further represents that it is qualified to perform and execute the services described above. If such license is suspended or revoked, this Contract shall automatically be terminated and Seller shall immediately notify County.

5. **Equipment:** Seller shall provide a sufficient number of trucks, vehicles, personnel and equipment available to safely and efficiently provide the Services. All trucks or vehicles operated by the Seller to perform the Services shall contain all equipment required by any authority to operate on streets and roads. All persons in the employ of Seller who operate trucks, vehicles or other equipment to perform Services 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, vehicles or other equipment in providing the Services.

6. **Independent Contractor.** Seller must comply with all applicable laws and regulations of the State of Texas, and County policies. Notwithstanding the foregoing sentence, Seller represents and maintains that Seller is an independent Contractor and is not an employee of the County, or any agency thereof, and represents and warrants that Seller does not desire or request any fringe benefits provided to employees of County, and/or any agency of the County, including but not limited to benefits associated with Hidalgo County's Civil Service Program. Seller agrees to be responsible for any federal income tax, withholding or social security tax liability that might arise from payments received hereunder. Seller will incur no financial obligation on behalf of the County without prior written approval of the County. Seller will be responsible for all personal and professional expenses, including, but not limited to, membership fees and dues and expenses of attending conventions and meetings.

7. **Termination.** County may terminate this agreement upon thirty (30) days written notice at any time for any reason or no reason at all.

8. **Indemnification:** Seller will indemnify and hold County harmless from any and all claims, actions, liability, and expenses (including costs of judgments, settlements, court costs, and attorneys' fees, regardless of the outcome of such claim or action) caused by, resulting from, or alleging negligent or intentional acts or omissions or any failure to perform any obligation undertaken or any covenant in this Contract, whether such act, omission, or failure was the Seller's or that of any person providing services hereunder through or for the Seller. Upon written notice from the County, the Seller will resist and defend at its own expense, and by counsel reasonably satisfactory to County, any such claim or action. The Seller will carry proper insurance with the County as an additional named insured.

9. **General Provisions.**

a. **Conflict with Applicable Law.** Nothing in this Agreement shall be construed so as to

require the commission of any act contrary to law, and whenever there is any conflict between any provision of this Agreement and any present or future law, ordinance or administrative, executive or judicial regulation, order or decree, or amendment thereof, contrary to which the parties have no legal right to contract, the latter shall prevail, but in such event the affected provision or provisions of this Agreement shall be modified only to the extent necessary to bring them within the legal requirements and only during the time such conflict exists.

b. No Waiver. No waiver by 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.

c. Texas Law to Apply. This Agreement shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Hidalgo County, Texas. The parties hereby consent to personal jurisdiction in Hidalgo County, Texas.

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

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

If to Seller: **Name: Frontera Material Inc.**
 Attention: Eddie Forshage
 Address: PO Box 1449
 Elsa, TX 78543

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

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

f. Successors. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors, and

assigns where permitted by this Agreement.

g. Assignment. This Agreement shall not be assignable.

h. Headings. The headings and captions contained in this Agreement are solely for convenient reference and shall not be deemed to affect the meaning or interpretation of any provision or paragraph hereof.

i. Gender and Number. All pronouns used in this Agreement shall include the other gender, whether used in the masculine, feminine or neuter gender, and the singular shall include the plural whenever and as often as may be appropriate.

j. Authority to Execute. The execution and performance of this Agreement by County and Company have been duly authorized by all necessary laws, resolutions or corporate action, and this Agreement constitutes the valid and enforceable obligations of County and Company in accordance with its terms.

k. Insurance: Consistent with its status as an independent contractor and at its sole expense, Company agrees that throughout the duration of the work under this contract and any extension hereof, it shall provide and maintain any and all insurances and abide by any requirements which are specified in the Procurement Packet/Specifications and/or which may be necessary in providing Services or are otherwise required by law. Insurance policies shall cover, but are not limited to, Bidder's activities and all persons, vehicles, equipment and property connected with providing Services, to include theft and loss. The amount of insurance required shall be in accordance with amounts specified by the County or as prescribed by law, but in no event shall any amount be less than the minimum amounts prescribed by law, including, but not limited to the Texas Tort Claims Act. These requirements do not establish limits of Company's liability. Any and all applicable insurance requirements and amounts are incorporated herein by reference for all purposes. Company is responsible for ensuring all required insurance policies are valid for the duration of the contract. All insurance policies are to be issued by an insurance company authorized to do business in the State of Texas and acceptable to County. Company shall cause all subcontractors utilized by Company to also comply with these specifications. Company shall furnish to County certificate(s) of coverage, and all renewals throughout the duration of the Project, issued by the insurer that such insurance is in full force and effect. (See **Exhibit "C"** attached hereto and incorporated herein for all purposes). For each applicable policy, Company shall name the County as an additional insured. Company shall notify County a minimum of thirty (30) days in advance of cancellation of all or part of a policy. Company shall make any other insurance documentation available to County upon request.

l. Commitment of Current Revenues Only. In the event that, during any term hereof, the Commissioners Court does not appropriate sufficient funds to meet the obligations of County under this Contract, County may terminate this Contract upon sixty (60) days written notice to Company. County agrees, however, to use reasonable efforts to secure funds necessary for the continued performance of this Contract. The parties intend this provision to be a continuing right to terminate this Contract at the expiration of each budget period of County. *Agreements for the acquisition, including lease of real or personal property under Tex. Loc. Govt. Code*

§271.903: In the event that, during any term hereof, the Commissioner's Court does not appropriate sufficient funds to meet the obligations of County under this Agreement, County may terminate this Agreement upon sixty (60) days written notice to Company, County agrees, however, to use a best efforts attempt to obtain and appropriate funds for payment of the Agreement. The parties intend this provision, if applicable, to be a continuing right to terminate this Agreement at the expiration of each budget period of County in accordance with Tex. Loc. Govt. Code §271.903 (Vernon Supp. 1996).

m. Entire Agreement. This Agreement contains the entire contract between the parties hereto, and each party acknowledges that neither has made (either directly or through any agent or representative) any representations or agreements in connection with this Agreement not specifically set forth herein. This Agreement may be modified or amended only by an agreement in writing executed by County and Company, and not otherwise.

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

o. Purchasing Ethics. Company represents and warrants it has not, during the process of being awarded this contract violated the following ethical standards of County and, upon and after the execution of this Agreement, agrees to abide by the following ethical standards of County:

(1) It shall be a breach of ethics to offer, give or agree to give any elected official, department head or employee, or former elected official, department head or employee, of County, or for any elected official, department head or employee or former elected official, department head or employee of County, to solicit, demand, accept or agree to accept from another person, entity or organization, a gratuity or an office of employment in connection with any decision, approval, disapproval, recommendation, preparation or any part of a program requirement or purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefore pending before any department or agency of County.

(2) It shall be a breach of ethics for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor for any contract for County, or any person associated therewith, as an inducement for the award of a subcontract or order.

p. Nondiscrimination: Company, including subcontractors, assignees and successors in interest, ensures that no person shall on the grounds of race, religion, color, national origin, sex, age, or disability, or any other protected class under law, be excluded from participation in, be

denied the benefits of, or be otherwise subjected to discrimination or retaliation in any federally or non- federally funded program or activity when providing any services described herein under this contract/agreement. Applicable nondiscrimination statements and provisions of Title VI of the Civil Rights Act of 1964, as amended, were provided as part of the initial procurement packet and are incorporated herein and made part of this agreement for all purposes.

q. 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.

r. Required Contract Provision for Contracts Subject to Federal Award (if applicable): Pursuant to 2 CFR 200.327, 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. 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 effective as of the day and year first above written.

County: HIDALGO COUNTY

By: *Richard F. Cortez*
Hon. Richard F. Cortez, County Judge

ATTEST:

Arturo Guajardo Jr.
Hon. Arturo Guajardo, Jr., County Clerk



Company: Frontera Material Inc.

By: *Eddie Forshage*
Printed Name: Eddie Forshage
Title: President

Approved by Commissioners Court on: *12/13/22*

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

By: *Victor M. Garza*
Victor M. Garza, Assistant District Attorney

APPROVED BY
COMMISSIONERS COURT
ON: *12/13/22 BAS*

EXHIBIT "A"
Request for Bid (RFB)
Procurement Packet