Commissioners Court January 18, 2022
NOTICE OF A MEETING OF THE
COMMISSIONERS COURT OF HAYS COUNTY, TEXAS

This Notice is posted pursuant to the Texas Open Meetings Act. (VERNONS TEXAS CODES ANN. GOV. CODE CH.551). The Hays County Commissioners Court will hold a meeting at **9:00 A.M.** on the **18th day of January 2022**, in the Hays County Courthouse, Room 301, San Marcos, Texas. An Open Meeting will be held concerning the following subjects:

CALL TO ORDER
INVOCATION
PLEDGE OF ALLEGIANCE - **Pledge of Allegiance to the American Flag & Pledge of Allegiance to the Texas Flag**
ROLL CALL

PUBLIC COMMENTS

At this time **3-MINUTE** comments will be taken from the audience on Non-Agenda related topics. To address the Court, please submit a Public Participation/ Witness Form to the County Clerk. Please Complete the Public Participation/ Witness Form in its Entirety.
NO ACTION MAY BE TAKEN BY THE COURT DURING PUBLIC COMMENTS.

PRESENTATIONS & PROCLAMATIONS

1	5-6	Adopt a Proclamation declaring January 2022 as National Crime Stoppers Month. **SHELL**
2	7-8	Presentation recognizing the County Clerk's Office for receiving the Five Star Exemplary Award from the Texas Department of State Health Services - Vital Statistics Section. **BECERRA/CARDENAS**

CONSENT ITEMS

The following may be acted upon in one motion.
A Commissioner, the County Judge, or a Citizen may request items be pulled for separate discussion and/or action.

3	9	Approve payments of County invoices. **VILLARREAL-ALONZO**
4	10	Approve payments of Juror checks. **VILLARREAL-ALONZO**
5	11	Approve the payment of United Healthcare claims. **VILLARREAL-ALONZO**
6	12-34	Approve Commissioners Court Minutes of December 7, 2021 and December 21, 2021. **BECERRA/CARDENAS**
7	35	Approve the payment of the January 31, 2022 payroll disbursements in an amount not to exceed $4,200,000.00 effective January 31, 2022 and post totals for wages, withholdings, deductions and benefits on the Hays County website once finalized. **BECERRA/RICHEY**
8	36-37	Authorize the County Judge to use his Community Program Expense for the Dunbar Heritage Association in the amount of $500.00. **BECERRA**
9	38-40	Authorize the County Judge to execute the annual renewal contract between Hays County and American Aerobic Management Systems (AAMS) in the amount of $2,985.00 for the annual maintenance and inspections of all Hays County septic systems. **BECERRA/T.CRUMLEY**
10	41-42	Authorize the execution of Resolution and submission of a grant application to the Office of the Governor, Criminal Justice Division, General Victim Assistance Program for the Hays County Victim assistance for the Family Justice Center in the amount of $49,860.97. **BECERRA/T.CRUMLEY**
11	43-99	Approve specifications for RFQ 2022-Q01 Onion Creek Watershed Hydraulic Study and authorize Purchasing to solicit for bids and advertise. **SMITH/JONES/PACHECO**
12	100-111	Authorize the execution of Resolution and grant application submittal to the Office of the Governor, Homeland Security Grants Division for the Hays County HazMat Team Monitor Maintenance project in the amount of $10,000.00. **INGALSBE/T.CRUMLEY**
13	112-192	Authorize the County Judge to execute the Sixth Amended and Restated Development Agreement between the City of San Marcos, Hays County, and Lazy Oaks Ranch, LP in connection with the La Cima development, providing additional standards for the first phase of multifamily development. **SHELL**
14	193-195	Authorize the County Judge to execute an Agreement between Hays County and The Bug Master for pest control services for the Public Safety Building (PSB) and the Uhland Road Jail Complex. **BECERRA/T.CRUMLEY/CUTLER**
15	196-199	Approve renewal of IFB 2020-B04 Concrete with Brauntex Materials and Lauren Concrete. **BECERRA/BORCHERDING**

16	200-251	Authorize the County Judge to execute a Contract Amendment with Waste Connections Lone Star, Inc. pursuant to IFB 2021-B12 Countywide Dumpsters. **BECERRA/T.CRUMLEY**
17	252	Accept contributions totaling $13,175.00 on behalf of the Hays County Child Protective Board and amend the budget accordingly. **INGALSBE**
18	253-254	Accept a Revised Fee Schedule for the Juvenile Detention Center related to GED Testing Fees for juveniles in the placement facility. **INGALSBE/LITTLEJOHN**
19	255-257	Authorize the execution of Resolution and submission of a grant application to the Office of the Governor, Criminal Justice Division, Justice Assistance Grant Program for the continuation of the Hays County for the Mental health Crisis Intervention program in the amount of $58,405.90. **SHELL/T.CRUMLEY**
20	258-266	Authorize the County Judge to execute a service agreement with Cornerstone Detention Products Inc. for the security system located at the Jail. **INGALSBE/CUTLER**
21	267-269	Authorize the County Judge to execute a Contract Termination Notice with Clifford Power Systems, Inc. related to the Generator Maintenance Agreement. **BECERRA/T.CRUMLEY**
22	270	Authorize the Elections Administration Office to purchase video streaming equipment for elections and amend the budget accordingly. **JONES/ANDERSON**
23	271-321	Approve specifications for RFP 2022-P06 Emergency Rental Assistance Program - Program Manager and authorize Purchasing to solicit for bids and advertise. **INGALSBE/SMITH/T.CRUMLEY**
24	322-324	Approve renewal of IFB 2021-B04 Lawn & Landscape Services with Texan Landscape, LLC. **BECERRA/T.CRUMLEY**
25	325-332	Authorize the County Judge to execute Installation Proposals with the Lower Colorado River Authority (LCRA) for P25 site additions and re-programming existing infrastructure as well as P25 700 mhz radio migration and authorize a discretionary exemption pursuant to Texas Local Government Code, Ch. 262.024(a)(7)(D). **BECERRA/MIKE JONES**

ACTION ITEMS

ROADS

26	333-384	Discussion and possible action to award contract for IFB 2022-B06 Road Building Materials-Limestone Rock Asphalt, Cold Mix to Vulcan Construction Materials, LLC. **BECERRA/BORCHERDING**
27	385-467	Discussion and possible action to award contract for IFB 2022-B07 Road Building Materials - Hot Mix Thin Overlay to Colorado Materials, Ltd. (primary vendor) and Asphalt Inc. LLC, dba Lone Star Paving Company (secondary vendor). **BECERRA/BORCHERDING**
28	468-474	Discussion and possible action to consider the acceptance of road construction & surface drainage improvements, release of the construction bond #CMS0344771 in the amount of $743,641.94, acceptance of the 2-year maintenance bond #PB03016800715M in the amount of $732,254.05, and acceptance of the 1-year revegetation bond #PB03016800715M in the amount of $31,129.80 for 6 Creeks subd., Phase 1, Section 8A. **SMITH/BORCHERDING**
29	475-483	Discussion and possible action to consider the acceptance of road construction & surface drainage improvements, release of the construction bond #0797172 in the amount of $1,197,784.00, acceptance of the 2-year maintenance bond #EACX4020543 in the amount of $162,339.05, and acceptance of the 2-year revegetation bond #EACX4020546 in the amount of $6,518.00 for Sunset Oaks subd., Section 4, Phase 1B. **INGALSBE/BORCHERDING**

SUBDIVISIONS

30	484-487	PLN-1834-NP; Whispering Oaks Ranch Subdivision (1 Lot). Discussion and possible action to approve the final plat. **SHELL/MACHACEK**

MISCELLANEOUS

31	488-491	Discussion and possible action to accept the renaming of a street name as originally platted in Sunset Canyon, Section II-C Subdivision. **SMITH/PACHECO**
32	492-494	Discussion and possible action to approve the Joint Election Resolution for the conduct of the Joint Primary Election being held by the Republican Party and Democratic Party on March 1, 2022. **INGALSBE/ANDERSON**
33	495	Discussion and possible action to award RFP 2021-P04 Medical Services: Jail & Juvenile Detention Center to Wellpath, LLC.; and authorize staff and General Counsel to negotiate a contract. **INGALSBE/CUTLER/LITTLEJOHN**

34	496-522	Discussion and possible action to award contract for IFB 2022-B05 Countywide Portable Toilets and Handwashing Stations Rental Services to United Site Services of Texas, Inc. **BECERRA/T.CRUMLEY**
35	523-526	Discussion and possible action to authorize the County Judge to execute a Health Care Services Agreement between Hays County and Ascension Seton dba Ascension Seton Hays regarding participation in the drug discount program known as the 340B Program. **BECERRA/T.CRUMLEY**
36	527-529	Discussion and possible action to authorize the County Judge to execute a Service Order Agreement with Grande Communications Networks, LLC related to Data, Phone and Security Services at the new Facility located at 120 Stagecoach Trail in San Marcos. **SHELL/MCGILL**
37	530-531	Discussion and possible action to adopt a Resolution authorizing the execution of an Advance Funding Agreement (AFA) with Texas Department of Transportation for a Transportation Alternative Set-Aside (TASA) project. **SHELL/T.CRUMLEY/BORCHERDING**
38	532	Discussion and possible action to create an RFQ to bring broadband to rural parts of Hays County using American Rescue Plan Act, State, and/or Build Back Better Funds. **BECERRA**
39	533-546	Discussion and possible action to authorize the Texas Water Trade (TWT) to complete and submit an application to the Texas Water Development Board (TWDB) on behalf of Hays County for use of the Clean Water State Revolving Fund for financing of up to $25,000,000 for water quality protection lands and amend the Professional Services Agreement between Hays County and TWT to extend the project completion date to December 31, 2022. **SHELL**

EXECUTIVE SESSIONS

The Commissioners Court will announce it will go into Executive Session, if necessary, pursuant to Chapter 551 of the Texas Government Code, to receive advice from Legal Counsel to discuss matters of land acquisition, litigation, and personnel matters as specifically listed on this agenda. The Commissioners Court may also announce it will go into Executive Session, if necessary, to receive advice from Legal Counsel regarding any other item on this agenda.

40	547	Executive Session pursuant to Sections 551.071 and 551.072 of the Texas Government Code: consultation with counsel and deliberation regarding the purchase, exchange, lease and/or value of Right of Way located at or near Darden Hill Road in Pct. 4. Possible discussion and/or action may follow in open court. **SMITH**
41	548	Executive Session pursuant to Sections 551.071 and 551.072 of the Texas Government Code: consultation with counsel and deliberation regarding the purchase, exchange, lease and/or value of real property associated with the POSAC-recommended 2020 Parks and Open Space Bond Projects. Possible discussion and/or action may follow in open court. **BECERRA**
42	549	Executive Session pursuant to Sections 551.071 and 551.087 of the Texas Government Code: consultation with counsel and deliberation regarding economic development negotiations associated with Project Deep Golden and Project Shamrock. Possible discussion and/or action may follow in open Court. **JONES**
43	550	Executive Session pursuant to Sections 551.071 and 551.072 of the Texas Government Code: consultation with counsel and deliberation regarding the purchase, exchange, lease and/or value of real property owned by Hays County located along Veterans Drive, Kyle in Pct. 2 & 3. Possible discussion and/or action may follow in open court. **JONES/SHELL**
44	551	Executive Session pursuant to Sections 551.071 and 551.074 of the Texas Government Code: consultation with counsel and the Auditor's Office regarding the Emergency Rental Assistance Program and the employment and individual duties of all positions created in relation to the Program. Possible discussion and/or action may follow in open court. **INGALSBE**
45	552	Executive Session pursuant to Sections 551.071 and 551.074 of the Texas Government Code deliberation regarding employment and duties of all positions within the Hays County Transportation Department. Possible discussion and/or action may follow in open court. **SHELL**
46	553	Executive Session pursuant to Sections 551.071 and 551.072 of the Texas Government Code: consultation with counsel and deliberation regarding the purchase, exchange, lease and/or value of real property owned by Hays County located along 712 S. Stagecoach Trail, San Marcos in Pct. 3. Possible discussion and/or action may follow in open court. **SHELL**
47	554	Executive Session pursuant to Sections 551.071 and 551.072 of the Texas Government Code: consultation with counsel and deliberation to consider a resolution determining the necessity and authorizing the use of the County's power of eminent domain to acquire approximately 0.0646 acres in fee simple from property located along CR266 (Centerpoint to Rattler), owned by Mary Ann Natal, and which is required for improving County Road 266 as part of the Hays County Road Bond Program, and take other appropriate action (Parcel 13). Possible discussion and/or action may follow in open court. **INGALSBE**

STANDING AGENDA ITEMS

The Commissioners Court utilizes Standing Agenda Items to address issues that are frequently or periodically discussed in court. This section allows the Court to open the item when a need for discussion arises.

48	Discussion and possible action related to the burn ban and/or disaster declaration. **BECERRA**
49	Discussion related to the Hays County inmate population, to include current population counts and costs. **BECERRA**
50	Discussion of issues related to the Hays County Jail, and the planning of projects pertaining to the public safety facilities needs within the County. Possible action may follow. **INGALSBE/CUTLER**
51	Discussion and possible action regarding funding received or to be received by Hays County under the American Rescue Plan Act (ARPA). **BECERRA**

ADJOURNMENT

Posted by 5:00 o'clock P.M. on the 14th day of January, 2022

COMMISSIONERS COURT, HAYS COUNTY, TEXAS

CLERK OF THE COURT

Hays County encourages compliance with the Americans with Disabilities Act (ADA) in the conduct of all public meetings. To that end, persons with disabilities who plan to attend this meeting and who may need auxiliary aids such as an interpreter for a person who is hearing impaired are requested to contact the Hays County Judge's Office at (512) 393-2205 as soon as the meeting is posted (72 hours before the meeting) or as soon as practical so that appropriate arrangements can be made. While it would be helpful to receive as much advance notice as possible, Hays County will make every reasonable effort to accommodate any valid request regardless of when it is received. Braille is not available.

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Adopt a Proclamation declaring January 2022 as National Crime Stoppers Month.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
PROCLAMATIONS/PRESENTATIONS	January 18, 2022	N/A

LINE ITEM NUMBER

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR REVIEW:** N/A

REQUESTED BY	SPONSOR	CO-SPONSOR
Sgt. Jeffrey Jordan, Hays County Sheriff's Office/Hays County Crime Stoppers Executive Director	SHELL	N/A

SUMMARY

Proclamation declaring January 2022 National Crime Stoppers Month.

Attachment: Proclamation

PROCLAMATION DECLARING JANUARY 2022 AS
NATIONAL CRIME STOPPERS MONTH

WHEREAS, crime is a menace to our society. It tears apart lives and causes feelings of fear, anger, and helplessness. Communities cannot prosper if they are not safe, and when our lives are disrupted by criminals, the outcome can not only include loss of property or injury, but the loss of life and the loss of a vital sense of security. As caring citizens, we are obligated to do everything in our power to ensure that our communities are not victimized by criminals; and

WHEREAS, since 1981, the Hays County Crime Stoppers program has empowered the citizens of Hays County to take a stand against crime and reclaim their sense of safety. Crime Stoppers brings together citizens, law enforcement agencies, the media, businesses, and educational institutions to solve crimes, catch criminals, and make our communities safer; and

WHEREAS, combining media awareness, cash rewards, and an anonymous tipline for citizens to contact, Hays County Crime Stoppers has created an effective method for solving crimes and helping citizens take back control over their neighborhoods; and

WHEREAS, Hays County Crime Stoppers has to date received over 6,000 tips, which have led to over 730 arrests, assisted in clearing over 870 cases, and the recovery of over 13 million dollars in drugs and property. Anonymous Crime Stopper callers have been awarded over $85,000 for tips leading to arrests; and

WHEREAS, Hays County Crime Stoppers has forged strong working relationships with all area law enforcement agencies, including, but not limited to, the Hays County Sheriff's Office, San Marcos Police Department, Kyle Police Department, Buda Police Department, Texas State University-San Marcos Police Department, Hays County Criminal District Attorney's Office, and the Texas Department of Public Safety; and

WHEREAS, Hays County Crime Stoppers is working to continue increasing awareness of community safety issues and crime prevention efforts while working with our communities to continuously evolve to better serve the citizens of Hays County.

NOW, THEREFORE, BE IT RESOLVED that the Hays County Commissioners Court does hereby proclaim January 2022, as:

National Crime Stoppers Month

throughout Hays County and calls upon all members of our county to increase their participation in our effort to prevent crime, thereby strengthening the communities in which we live.

ADOPTED THIS 18TH DAY OF JANUARY 2022

Ruben Becerra
Hays County Judge

Debbie Gonzales Ingalsbe
Commissioner, Pct. 1

Mark Jones
Commissioner, Pct. 2

Lon A. Shell
Commissioner, Pct. 3

Walt Smith
Commissioner, Pct. 4

ATTEST:

Elaine H. Cárdenas, MBA, PhD
Hays County Clerk

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Presentation recognizing the County Clerk's Office for receiving the Five Star Exemplary Award from the Texas Department of State Health Services - Vital Statistics Section.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
PROCLAMATIONS/PRESENTATIONS	January 18, 2022	

LINE ITEM NUMBER

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR REVIEW:** N/A

REQUESTED BY	SPONSOR	CO-SPONSOR
CARDENAS	BECERRA	N/A

SUMMARY

EXEMPLARY

THIS CERTIFICATE IS PRESENTED TO

HAYS COUNTY CLERK

for excellence in the

Vital Statistics Registration Process

December 9, 2021

Thank you for going above and beyond to register your records and ensure excellent customer service, security, and data quality in Texas!

Tara Das
Texas State Registrar, VSS

TEXAS Health and Human Services | Texas Department of State Health Services

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court
Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Approve payment of County invoices.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
CONSENT	January 18, 2022	

LINE ITEM NUMBER

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR APPROVAL:** N/A

REQUESTED BY	SPONSOR	CO-SPONSOR
Auditor's Office	VILLARREAL-ALONZO	N/A

SUMMARY

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court
Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Approve payment of Juror checks.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
CONSENT	January 18, 2022	

LINE ITEM NUMBER

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR APPROVAL:** N/A

REQUESTED BY	SPONSOR	CO-SPONSOR
Auditor's Office	VILLARREAL-ALONZO	N/A

SUMMARY

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court
Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Approve the payment of United Healthcare claims.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
CONSENT	January 18, 2022	

LINE ITEM NUMBER

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR APPROVAL:** N/A

REQUESTED BY	SPONSOR	CO-SPONSOR
Auditor's Office	VILLARREAL-ALONZO	N/A

SUMMARY

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Approve Commissioners Court Minutes of December 7, 2021 and December 21, 2021.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
CONSENT	January 18, 2022	

LINE ITEM NUMBER

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR REVIEW:** N/A

REQUESTED BY	SPONSOR	CO-SPONSOR
CARDENAS	BECERRA	N/A

SUMMARY

STATE OF TEXAS *
COUNTY OF HAYS *

ON THIS THE 7th DAY OF DECEMBER A.D., 2021, IN THE HAYS COUNTY COURTHOUSE, 111 E. SAN ANTONIO ST., SUITE 301, SAN MARCOS, TEXAS, THE COMMISSIONERS' COURT OF HAYS COUNTY, TEXAS, MET IN REGULAR MEETING. THE FOLLOWING MEMBERS WERE PRESENT, TO-WIT:

RUBEN BECERRA	**COUNTY JUDGE**
DEBBIE GONZALES INGALSBE	**COMMISSIONER, PCT. 1**
MARK JONES	**COMMISSIONER, PCT. 2**
LON A. SHELL	**COMMISSIONER, PCT. 3**
WALT SMITH	**COMMISSIONER, PCT. 4**
ROXANNE RODRIGUEZ	**DEPUTY COUNTY CLERK**

Clerk's Note: Commissioner Smith joined the meeting via TEAMS during Executive Session.

Clerk's Note: For complete transcript go to Hays County Website
https://hayscountytx.com/commissioners-court/court-video/
Transcript can be translated into any language through Google.com.

THE FOLLOWING PROCEEDINGS WERE HAD, THAT IS:

Commissioner Ingalsbe gave the invocation. Judge Becerra led the court in the Pledge of Allegiance to the United States and Texas flags. Judge Becerra called the meeting to order.

PUBLIC COMMENTS

Dan Lyon made a public comment concerning high property taxes and the Greater San Marcos Partnership. Rodrigo Amaya made a public comment concerning General Counsel and ethics. Kate Johnson, Chair of the Hays County Historical Commission, made a public comment about the Christmas event at the Kyle Railroad Depot and Heritage Center on Saturday, December 11th.

37065 ADOPT A PROCLAMATION DECLARING DECEMBER 5TH - 11TH, 2021 AS NATIONAL INFLUENZA VACCINATION WEEK.

Commissioner Ingalsbe thanked the Hays County Local Health Department. Tammy Crumley, Director of Countywide Operations, introduced the new epidemiologist, Juli Barksdale. **A motion was made by Commissioner Ingalsbe, seconded by Commissioner Shell to adopt a Proclamation declaring December 5th - 11th, 2021 as National Influenza Vaccination Week. All present voted "Aye." MOTION PASSED.**

UPDATE ON THE DRIPPING SPRINGS TAX INCREMENT ZONE NO. 1 AND ZONE NO. 2 BY DAVID EDWARDS AND KEENAN SMITH.

David Edwards, Chair of the Board of the Tax Increment Reinvestment Zones 1 and 2 (TIRZ), and Keenan Smith, TIRZ Project Manager, gave a presentation on the progress of the TIRZ and the priority projects in Dripping Springs. Commissioner Smith thanked the presenters and notified the court that projects would be expanding in fiscal quarters 1 and 2 of 2022. Judge Becerra explained that money paid in taxes is reinvested in the same area. No action taken.

37066 APPROVE PAYMENTS OF COUNTY INVOICES.

A motion was made by Commissioner Jones, seconded by Commissioner Ingalsbe to approve payments of County invoices. All present voted "Aye." MOTION PASSED.

37067 APPROVE PAYMENTS OF JUROR CHECKS.

A motion was made by Commissioner Jones, seconded by Commissioner Ingalsbe to approve payments of Juror checks. All present voted "Aye." MOTION PASSED.

37068 APPROVE THE PAYMENT OF UNITED HEALTHCARE CLAIMS.

A motion was made by Commissioner Jones, seconded by Commissioner Ingalsbe to approve the payment of United Healthcare claims. All present voted "Aye." MOTION PASSED.

37069 APPROVE COMMISSIONERS COURT MINUTES OF SEPTEMBER 7, 2021, SEPTEMBER 13, 2021 AND SEPTEMBER 20, 2021.

A motion was made by Commissioner Jones, seconded by Commissioner Ingalsbe to approve Commissioners Court Minutes of September 7, 2021, September 13, 2021 and September 20, 2021. All present voted "Aye." MOTION PASSED.

37070 APPROVE THE PAYMENT OF THE DECEMBER 15, 2021 PAYROLL DISBURSEMENTS IN AN AMOUNT NOT TO EXCEED $3,160,000.00 EFFECTIVE DECEMBER 15, 2021 AND POST TOTALS FOR WAGES, WITHHOLDINGS, DEDUCTIONS AND BENEFITS ON THE HAYS COUNTY WEBSITE ONCE FINALIZED.

A motion was made by Commissioner Jones, seconded by Commissioner Ingalsbe to approve the payment of the December 15, 2021 payroll disbursements in an amount not to exceed $3,160,000.00 effective December 15, 2021 and post totals for wages, withholdings, deductions and benefits on the Hays County website once finalized. All present voted "Aye." MOTION PASSED.

37071 APPROVE THE APPOINTMENTS OF JOHN NETT, CITY OF BUDA ENGINEER AND FLOODPLAIN ADMINISTRATOR AS THE PRIMARY VOTING MEMBER ON THE TECHNICAL ADVISORY COMMITTEE OF CAMPO, AND CHAD GILPIN, CITY OF DRIPPING SPRINGS ENGINEER, AS THE ALTERNATE VOTING MEMBER.

A motion was made by Commissioner Jones, seconded by Commissioner Ingalsbe to approve the appointments of John Nett, City of Buda Engineer and Floodplain Administrator as the primary voting member on the Technical Advisory Committee of CAMPO, and Chad Gilpin, City of Dripping Springs Engineer, as the alternate voting member. All present voted "Aye." MOTION PASSED.

37072 APPROVE THE REAPPOINTMENTS OF JERRY BORCHERDING, DIRECTOR OF TRANSPORTATION, AS THE PRIMARY VOTING MEMBER ON THE TECHNICAL ADVISORY COMMITTEE OF CAMPO, AND WINTON PORTERFIELD, HAYS COUNTY PLANNER, AS THE ALTERNATE VOTING MEMBER.

A motion was made by Commissioner Jones, seconded by Commissioner Ingalsbe to approve the reappointments of Jerry Borcherding, Director of Transportation, as the primary voting member on the Technical Advisory Committee of CAMPO, and Winton Porterfield, Hays County Planner, as the alternate voting member. All present voted "Aye." MOTION PASSED.

37073 APPROVE THE REAPPOINTMENTS OF JIM HOLLIS AND CAROL GREAVES TO SERVE ON THE BOARD OF EMERGENCY SERVICES DISTRICT #8, TWO YEAR TERMS ENDING ON DECEMBER 31, 2023.

A motion was made by Commissioner Jones, seconded by Commissioner Ingalsbe to approve the reappointments of Jim Hollis and Carol Greaves to serve on the board of Emergency Services District #8, two year terms ending on December 31, 2023. All present voted "Aye." MOTION PASSED.

37074 APPROVE THE REAPPOINTMENTS OF HALLEY ORTIZ, BERT BRONAUGH, AND JB KOLODZEY TO SERVE ON THE BOARD OF EMERGENCY SERVICES DISTRICT #2, TWO YEAR TERMS ENDING DECEMBER 31, 2023.

A motion was made by Commissioner Jones, seconded by Commissioner Ingalsbe to approve the reappointments of Halley Ortiz, Bert Bronaugh, and JB Kolodzey to serve on the board of Emergency Services District #2, two year terms ending December 31, 2023. All present voted "Aye." MOTION PASSED.

37075 APPROVE THE REAPPOINTMENT OF PAUL TERRY TO SERVE ON THE BOARD OF EMERGENCY SERVICES DISTRICT #5, A TWO-YEAR TERM ENDING DECEMBER 31, 2023.

Commissioner Jones gave thanks to the volunteers for the ESDs and committees. **and A motion was made by Commissioner Jones, seconded by Commissioner Ingalsbe to approve the reappointment of Paul Terry to serve on the board of Emergency Services District #5, a two-year term ending December 31, 2023. All present voted "Aye." MOTION PASSED.**

37076 APPROVE UTILITY PERMITS.

A motion was made by Commissioner Shell, seconded by Commissioner Jones to approve Utility Permits. All present voted "Aye." MOTION PASSED.

37077 AUTHORIZE PRE-PAYMENT TO PEDERNALES ELECTRIC COOPERATIVE (PEC) TO INSTALL ELECTRICAL LINES AND POLES TO ENERGIZE THE HAYS COUNTY PROPERTY AT 125 CAMINO DE RANCHO.

A motion was made by Commissioner Shell, seconded by Commissioner Jones to authorize pre-payment to Pedernales Electric Cooperative (PEC) to install electrical lines and poles to energize the Hays County property at 125 Camino De Rancho. All present voted "Aye." MOTION PASSED.

37078 AUTHORIZE THE HAYS COUNTY OFFICE OF EMERGENCY SERVICES TO USE AMERICAN RESCUE PLAN FUNDS IN THE AMOUNT OF $2,669,000.00 TO INSTALL RADIO EQUIPMENT ON EXISTING STRUCTURES AND USE $2,929,300.00 TO TRADE-IN/REPLACE EXISTING RADIOS COUNTYWIDE.

Judge Becerra explained that this item will improve communication and eliminate "dead spots" in the county. Commissioner Ingalsbe asked about countywide funding left from ARPA. Vickie Dorsett, First Assistant Auditor, stated there is about $4.2 million left. Marisol Alonzo, County Auditor, clarified that the expenditure category has not yet been determined. Commissioner Smith asked to add the amendment to use the remainder of the countywide funds and split the remainder. Commissioner Shell added to make this contingent upon approval by the Auditor's office. **A motion was made by Commissioner Shell, seconded by Judge Becerra to use American Rescue Plan funds in the amount of $2,669,000 to install radio equipment on existing structures and $2,929,300 to trade in/replace existing radios countywide upon determination by the Auditor's office that ARPA can be used for this and to allocate the difference between what is remaining in the countywide portion of the ARPA Funds; $500,000 from Precinct 3 bucket, then evenly split the remainder of that amongst Precent 1, Precinct 2 and Precinct 4. All present voted "Aye." MOTION PASSED.**

37079 AUTHORIZE THE COUNTY JUDGE TO EXECUTE THE FY 2022 INTERLOCAL CONTRACT FOR THE NEXT GENERATION 9-1-1 DATABASE PROGRAM WITH THE CAPITAL AREA EMERGENCY COMMUNICATIONS DISTRICT (CAECD) FOR EMERGENCY COMMUNICATIONS GEOGRAPHIC INFORMATION SYSTEMS (GIS).

A motion was made by Commissioner Shell, seconded by Commissioner Jones to authorize the County Judge to execute the FY 2022 Interlocal Contract for the Next Generation 9-1-1 Database Program with the Capital Area Emergency Communications District (CAECD) for emergency communications Geographic Information Systems (GIS). All present voted "Aye." MOTION PASSED.

37080 AUTHORIZE PAYMENT TO BECKWITH ELECTRONICS SYSTEMS, LLC IN THE AMOUNT OF $630.00 FOR THE COUNTY COURT AT LAW OFFICES RELATED TO REPAIRS TO THE CCL #2 COURTROOM MICROPHONE SYSTEM WHERE NO PURCHASE ORDER WAS ISSUED AS REQUIRED PER THE HAYS COUNTY PURCHASING POLICY.

Rodrigo Amaya made a public comment asking for clarification on the purchasing process. Marisol Alonzo, County Auditor, Judge Becerra, and Commissioner Shell described the purchasing process. **A motion was made by Commissioner Ingalsbe, seconded by Commissioner Jones to authorize payment to Beckwith Electronics Systems, LLC in the amount of $630.00 for the County Court at Law Offices related to repairs to the CCL #2 courtroom microphone system where no purchase order was issued as required per the Hays County Purchasing Policy. All present voted "Aye." MOTION PASSED.**

AUTHORIZE PAYMENT TO APPLIED CONCEPTS, INC. IN THE AMOUNT OF $781.06 FOR THE DEPARTMENT OF PUBLIC SAFETY HAYS COUNTY DIVISION RELATED TO INCREASED CONTRACT COSTS FOR THE TROOPER'S RADAR SYSTEMS.

Rodrigo Amaya made a public comment concerning a discrepancy between the agenda item and the information in the backup. Commissioner Ingalsbe stated the wrong invoice was attached to the agenda item. Jordan Powell, Assistant General Counsel, recommended that the item be tabled since the contract is incorrect. Commissioner Shell commented on the County purchasing for the Department of Public Safety, a state agency. No action taken.

37081 AUTHORIZE THE OFFICE OF EMERGENCY SERVICES TO ACCEPT A DONATION OF $733.05 FROM NATURAL DEVELOPMENT AUSTIN, LLC TO PAY FOR THE LOCAL EMERGENCY PLANNING COMMITTEE LUNCHEON AND AMEND THE BUDGET ACCORDINGLY.

Commissioner Ingalsbe thanked La Cima for providing the meals for the luncheons. **A motion was made by Commissioner Ingalsbe, seconded by Commissioner Shell to authorize the Office of Emergency Services to accept a donation of $733.05 from Natural Development Austin, LLC to pay for the Local Emergency Planning Committee Luncheon and amend the budget accordingly. All present voted "Aye." MOTION PASSED.**

37082 AUTHORIZE THE OFFICE OF GENERAL COUNSEL TO PROVIDE A NOTICE OF TERMINATION TO DRIPPING SPRINGS FOR ITS 1445 AGREEMENT WITH HAYS COUNTY.

Commissioner Smith spoke on the moratorium on development and the ability to renegotiate the agreement with the City of Dripping Springs. **A motion was made by Commissioner Ingalsbe, seconded by Commissioner Shell to authorize the Office of General Counsel to provide a notice of termination to Dripping Springs for its 1445 Agreement with Hays County. All present voted "Aye." MOTION PASSED.**

37083 DISCUSSION AND POSSIBLE ACTION TO ACCEPT THE MAINTENANCE BOND RIDER EXTENSION FROM DNT CONSTRUCTION UNTIL JUNE 12, 2022, FOR THE TURNERSVILLE ROAD & CAMPO DEL SOL PARKWAY EXTENSION PROJECT, MAINTENANCE BOND #PB03016800230M IN THE AMOUNT OF $121,243.00.

A motion was made by Commissioner Jones, seconded by Commissioner Ingalsbe to accept the maintenance bond rider extension from DNT Construction until June 12, 2022, for the Turnersville Road & Campo Del Sol Parkway Extension project, Maintenance bond #PB03016800230M in the amount of $121,243.00. All present voted "Aye." MOTION PASSED.

37084 DISCUSSION AND POSSIBLE ACTION TO CALL FOR A PUBLIC HEARING ON DECEMBER 21, 2021 TO ESTABLISH A "NO PARKING" ZONE ALONG BOTH SIDES OF BLISS SPILLAR ROAD BETWEEN SEPTEMBER SONG DRIVE AND THE END OF BLISS SPILLAR ROAD.

A motion was made by Commissioner Jones, seconded by Commissioner Ingalsbe to call for a public hearing on December 21, 2021 to establish a "No Parking" zone along both sides of Bliss Spillar Road between September Song Drive and the end of Bliss Spillar Road. All present voted "Aye." MOTION PASSED.

37085 HOLD A PUBLIC HEARING WITH POSSIBLE ACTION TO ESTABLISH A "NO THRU TRUCK TRAFFIC" ZONE ON YORK CREEK ROAD, A SEGMENT OF FRANCIS HARRIS LANE, AND A SEGMENT OF SOECHTING LANE.

Judge Becerra opened the public hearing at 10:16 a.m. Abigail Lindsey made a public comment in support of the agenda item and presented a petition of support to the court. Judge Becerra closed the public hearing at 10:18 a.m. Commissioner Ingalsbe stated there is too much thru traffic from trucks taking shortcuts. Commissioner Shell asked about the County's authority to pass this item. **A motion was made by Commissioner Ingalsbe, seconded by Commissioner Jones to establish a "No Thru Truck Traffic" zone on York Creek Road, a segment of Francis Harris Lane, and a segment of Soechting Lane. All present voted "Aye." MOTION PASSED. No motion or second made. No action taken.**

37086 HOLD A PUBLIC HEARING WITH POSSIBLE ACTION TO ESTABLISH A "YIELD" SIGN ON BOTH SIDES OF THE LOW-WATER CROSSING ON TRAUTWEIN ROAD FOR SAFETY.

Judge Becerra opened the public hearing at 10:23 a.m. No comments were made. Judge Becerra closed the public hearing at 10:23 a.m. **A motion was made by Commissioner Jones, seconded by Commissioner Shell to establish a "Yield" sign on both sides of the low-water crossing on Trautwein Road for safety. All present voted "Aye." MOTION PASSED.**

37087 DISCUSSION AND POSSIBLE ACTION TO APPROVE THE SELECTION OF PAPE-DAWSON ENGINEERS, INC. TO PERFORM CONSTRUCTION ENGINEERING AND INSPECTION (CE&I) SERVICES FOR THE OLD BASTROP RECONSTRUCTION AND SAFETY IMPROVEMENTS PROJECT IN PRECINCT 1; AND TO AUTHORIZE STAFF AND COUNSEL TO NEGOTIATE A WORK AUTHORIZATION UNDER THEIR ON-CALL CE&I CONTRACT.

Commissioner Ingalsbe stated the negotiated contract will come back to court for approval. **A motion was made by Commissioner Ingalsbe, seconded by Commissioner Jones to approve the selection of Pape-Dawson Engineers, Inc. to perform Construction Engineering and Inspection (CE&I) services for the Old Bastrop Reconstruction and Safety Improvements project in Precinct 1; and to authorize staff and counsel to negotiate a Work Authorization under their On-Call CE&I contract. All present voted "Aye." MOTION PASSED.**

37088 DISCUSSION AND POSSIBLE ACTION TO ACCEPT FISCAL SURETY FOR THE CONSTRUCTION OF STREET AND DRAINAGE IMPROVEMENTS IN THE AMOUNT OF $1,516,062.79 FOR CROSSWINDS, PHASE 5 SUBDIVISION (BOND #K40280649).

A motion was made by Commissioner Ingalsbe, seconded by Commissioner Jones to accept fiscal surety for the construction of street and drainage improvements in the amount of $1,516,062.79 for Crosswinds, Phase 5 Subdivision (Bond # K40280649). All present voted "Aye." MOTION PASSED.

37089 DISCUSSION AND POSSIBLE ACTION TO ACCEPT FISCAL SURETY FOR PAVING, DRAINAGE, AND EROSION SEDIMENTATION CONTROL IMPROVEMENTS IN THE AMOUNT OF $2,372,341.50 FOR DRIFTWOOD GOLF AND RANCH, PHASE 3 (BOND # 1001136082).

A motion was made by Commissioner Shell, seconded by Commissioner Jones to accept fiscal surety for Paving, Drainage, and Erosion Sedimentation control improvements in the amount of $2,372,341.50 for Driftwood Golf and Ranch, Phase 3 (Bond # 1001136082). All present voted "Aye." MOTION PASSED.

37090 PLN-1802-PC; HOLD A PUBLIC HEARING WITH POSSIBLE ACTION TO APPROVE THE BELL SPRINGS RANCHES SUBDIVISION, SECTION 1, LOT 2, REPLAT.

Judge Becerra opened the public hearing at 10:26 a.m. No comments were made. Judge Becerra closed the public hearing at 10:26 a.m. Colby Machacek, County Planner, explained the item. **A motion was made by Commissioner Shell, seconded by Commissioner Jones to approve the Bell Springs Ranches Subdivision, Section 1, Lot 2, Replat. All present voted "Aye." MOTION PASSED.**

37091 PLN-1873-PC; DRIPPING SPRINGS RANCH, PHASE 2, LOTS 1C-1 AND 1C-2, AMENDED (2 LOTS). DISCUSSION AND POSSIBLE ACTION TO CONSIDER GRANTING A VARIANCE TO CHAPTER 715 § 3.01(C) OF THE HAYS COUNTY DEVELOPMENT REGULATIONS.

Colby Machacek, County Planner, and Commissioner Smith explained the item. **A motion was made by Commissioner Smith, seconded by Commissioner Jones to grant a variance to Chapter 715 § 3.01(C) of the Hays County Development Regulations. All present voted "Aye." MOTION PASSED.**

37092 DISCUSSION AND POSSIBLE ACTION TO APPROVE THE NOMINATION OF COMMISSIONER WALT SMITH TO THE URBAN COUNTIES POLICY COMMITTEE FOR THE 2022-2033 TERM.

Commissioner Smith clarified this item only puts his name on the ballot. Judge Becerra corrected the item to be for the 2022-2023 term. **A motion was made by Commissioner Shell, seconded by Commissioner Jones to approve the nomination of Commissioner Walt Smith to the Urban Counties Policy Committee for the 2022-2023 term. All present voted "Aye." MOTION PASSED.**

37093 DISCUSSION AND POSSIBLE ACTION TO ALLOCATE FUNDS IN THE AMOUNT OF $21,000.00 FOR ADDITIONAL FIELD VALIDATION IN RELATION TO BROADBAND MAPPING.

Simone Corprew, Grant Writer for Hays County, clarified that the company applied for the grant, not the County. Vickie Dorsett, First Assistant Auditor, stated that where funding is pulled from will be determined once a contract is brought back to court. **A motion was made by Commissioner Shell, seconded by Commissioner Jones to allocate funds in the amount of $21,000.00 for additional field validation in relation to broadband mapping. All present voted "Aye." MOTION PASSED.**

37094 DISCUSSION AND POSSIBLE ACTION TO CONSIDER GRANTING A VARIANCE TO SECTION 10.W.1 OF THE HAYS COUNTY RULES FOR ON-SITE SEWAGE FACILITIES AND ALLOW ISSUANCE OF DEVELOPMENT PERMITS TO THE OWNER OF 2000 S.

Commissioner Ingalsbe corrected the address in the item to 2000 S. Hwy 21, as stated in the backup. Colby Machacek, County Planner, and Marcus Pacheco, Director of Development Services, explained the item. Jordan Powell, Assistant General Counsel, stated given the scrivener errors in the agenda item itself, it was ok to move forward with this item because it was sufficiently detailed in the backup. **A motion was made by Commissioner Ingalsbe, seconded by Commissioner Jones to grant a variance to Section 10.W.1 of the Hays County Rules for On-Site Sewage Facilities and allow issuance of development permits to the owner of 2000 S. Hwy 21. All present voted "Aye." MOTION PASSED.**

37095 DISCUSSION AND POSSIBLE ACTION TO ADOPT NEW ELECTION PRECINCTS RESULTING FROM REDISTRICTING CHANGES.

Shannon Fitzpatrick made a public comment against the outcome of the redistricting process and breaking up voting blocks. Jennifer Anderson, Hays County Elections Administrator, spoke about the number of voters and voting precincts. Steve Floyd, Hays County GIS Program Manager, further described the voting precincts. **A motion was made by Commissioner Jones, seconded by Judge Becerra to adopt new election precincts resulting from redistricting changes. All present voted "Aye." MOTION PASSED.**

37096 DISCUSSION AND POSSIBLE ACTION TO AWARD A CONTRACT FOR IFB 2021-B12 COUNTYWIDE DUMPSTER WITH WASTE CONNECTIONS LONE STAR, INC.

A motion was made by Commissioner Ingalsbe, seconded by Commissioner Jones to award a contract for IFB 2021-B12 Countywide Dumpster with Waste Connections Lone Star, Inc. All present voted "Aye." MOTION PASSED.

37097 DISCUSSION AND POSSIBLE ACTION TO AUTHORIZE THE EXECUTION OF A DEVELOPMENT AGREEMENT BETWEEN HAYS COUNTY AND THE OVERLOOK AT THE PRESERVE, LTD., RELATED TO THE DEVELOPMENT OF REAL PROPERTY LOCATED IN PRECINCT 4 OF HAYS COUNTY.

Marcus Pacheco, Director of Development Services, stated there are minor changes requested. Jordan Powell, Assistant General Counsel, detailed the changes being made. **A motion was made by Commissioner Ingalsbe, seconded by Commissioner Jones to authorize the execution of a Development Agreement between Hays County and The Overlook at the Preserve, Ltd., related to the development of real property located in Precinct 4 of Hays County. All present voted "Aye." MOTION PASSED.**

37098 DISCUSSION AND POSSIBLE ACTION TO AUTHORIZE THE COUNTY JUDGE TO EXECUTE THE GENESIS EBONDS LICENSING AND SERVICE PROVIDER AGREEMENT RELATED TO ELECTRONIC BAIL BONDS FOR THE HAYS COUNTY JAIL.

Julissa Villalpando, Captain of the Corrections Bureau, explained that this will result in shorter processing times, save money, and improve accuracy and efficiency. **A motion was made by Commissioner Shell, seconded by Commissioner Ingalsbe to authorize the County Judge to execute the Genesis eBonds Licensing and Service Provider Agreement related to electronic bail bonds for the Hays County Jail. All present voted "Aye." MOTION PASSED.**

Clerk's Note: Executive Session began at 10:45 a.m. and resumed back into open court at 12:33 p.m.

EXECUTIVE SESSION PURSUANT TO SECTIONS 551.071 AND 551.072 OF THE TEXAS GOVERNMENT CODE: CONSULTATION WITH COUNSEL AND DELIBERATION REGARDING THE PURCHASE, EXCHANGE, LEASE AND/OR VALUE OF REAL PROPERTY ASSOCIATED WITH THE POSAC-RECOMMENDED 2020 PARKS AND OPEN SPACE BOND PROJECTS. POSSIBLE DISCUSSION AND/OR ACTION MAY FOLLOW IN OPEN COURT.

Roxanne Rodriguez, Chief Deputy Clerk, read emailed public comment from Mario Garza, PhD in support of the POSAC recommendation for project funding for the Indigenous Cultures Institute. Judge Becerra acknowledged the receipt of emailed public comments from Ruben A. Arellano, Ph.D., and Andrew Aaron Valdez, which were not read. No action taken.

37099 EXECUTIVE SESSION PURSUANT TO SECTIONS 551.071 AND 551.072 OF THE TEXAS GOVERNMENT CODE: CONSULTATION WITH COUNSEL AND DELIBERATION REGARDING THE PURCHASE, EXCHANGE, LEASE AND/OR VALUE OF REAL PROPERTY LOCATED ON OR NEAR STAGECOACH TRAIL IN SAN MARCOS, TEXAS AND WITHIN PRECINCT 3. POSSIBLE DISCUSSION AND/OR ACTION MAY FOLLOW IN OPEN COURT.

A motion was made by Commissioner Shell, seconded by Commissioner Ingalsbe to authorize the Office of General Counsel to renegotiate or terminate the Purchase and Sale Agreement between Hays County and Morline Properties, Ltd., should the County's appraisal of 120 Stagecoach Trail be returned at a value less than the contract amount. All present voted "Aye." MOTION PASSED.

EXECUTIVE SESSION PURSUANT TO SECTIONS 551.071 AND 551.074 OF THE TEXAS GOVERNMENT CODE: CONSULTATION WITH COUNSEL AND THE AUDITOR'S OFFICE REGARDING THE EMERGENCY RENTAL ASSISTANCE PROGRAM AND THE EMPLOYMENT AND INDIVIDUAL DUTIES OF ALL POSITIONS CREATED IN RELATION TO THE PROGRAM. POSSIBLE DISCUSSION AND/OR ACTION MAY FOLLOW IN OPEN COURT.

No action taken.

37100 EXECUTIVE SESSION PURSUANT TO SECTIONS 551.071 AND 551.087 OF THE TEXAS GOVERNMENT CODE: CONSULTATION WITH COUNSEL AND DELIBERATION REGARDING ECONOMIC DEVELOPMENT NEGOTIATIONS ASSOCIATED WITH PROJECT PHOENIX, PROJECT DARK MONDAY AND PROJECT WILD STRAWBERRY. POSSIBLE DISCUSSION AND/OR ACTION MAY FOLLOW IN OPEN COURT.

Commissioner Jones described the facility and the jobs it will bring. **A motion was made by Commissioner Jones, seconded by Commissioner Ingalsbe to authorize the County Judge to execute a Chapter 381 Economic Development Incentives Agreement between Hays County and Redbird Flight Simulations, Inc. related to the establishment of a flight simulation manufacturing business in Kyle, Hays County, Texas. All present voted "Aye." MOTION PASSED.**

Clerk's Note - Agenda Item #41 RE: *DISCUSSION AND POSSIBLE ACTION RELATED TO THE BURN BAN AND/OR DISASTER DECLARATION.* **– WAS PULLED.**

DISCUSSION RELATED TO THE HAYS COUNTY INMATE POPULATION, TO INCLUDE CURRENT POPULATION COUNTS AND COSTS.

Judge Becerra read the Sheriff's update of the inmate population. Current maximum jail capacity is 410 inmates. Jail Standards recommends holding 10% open, lowering current capacity to 368 inmates. The number of "paper-ready" inmates who are now wardens of the state is 21. It is costing Hays County $1,470 per day, $10,290 per week, and $44,100 per month to house these inmates. No action taken.

Clerk's Note - Agenda Item #43 RE: *DISCUSSION AND POSSIBLE ACTION RELATED TO PROPOSED BILLS IN THE 87TH SPECIAL SESSION OF THE TEXAS LEGISLATURE AND TO CONSIDER ADOPTION OF RESOLUTION(S) REGARDING PROPOSED BILLS. THE COURT MAY OPT TO WITHDRAW TO EXECUTIVE SESSION DURING THIS ITEM TO CONSULT WITH LEGAL COUNSEL PURSUANT TO TEXAS GOVERNMENT CODE 551.071.* **– WAS PULLED.**

Clerk's Note - Agenda Item #44 RE: *DISCUSSION OF ISSUES RELATED TO THE HAYS COUNTY JAIL, AND THE PLANNING OF PROJECTS PERTAINING TO THE PUBLIC SAFETY FACILITIES NEEDS WITHIN THE COUNTY. POSSIBLE ACTION MAY FOLLOW.* **– WAS PULLED.**

Clerk's Note - Agenda Item #45 RE: *DISCUSSION AND POSSIBLE ACTION REGARDING FUNDING RECEIVED OR TO BE RECEIVED BY HAYS COUNTY UNDER THE AMERICAN RESCUE PLAN ACT (ARPA).* **– WAS PULLED.**

ADJOURNMENT

A motion was made by Commissioner Jones, seconded by Judge Becerra to adjourn court at 12:39 p.m.

I, ELAINE H. CÁRDENAS, COUNTY CLERK and EXOFFICIO CLERK OF THE COMMISSIONERS' COURT, do hereby certify that the foregoing contains a true and accurate record of the proceedings had by the Hays County Commissioners' Court on December 7, 2021.

COMMISSIONERS COURT HAYS COUNTY, TEXAS

ELAINE H. CÁRDENAS, COUNTY CLERK AND EXOFFICIO CLERK OF THE COMMISSIONERS' COURT OF HAYS COUNTY, TEXAS

STATE OF TEXAS *
COUNTY OF HAYS *

ON THIS THE 21st DAY OF DECEMBER A.D., 2021, IN THE HAYS COUNTY COURTHOUSE, 111 E. SAN ANTONIO ST., SUITE 301, SAN MARCOS, TEXAS, THE COMMISSIONERS' COURT OF HAYS COUNTY, TEXAS, MET IN REGULAR MEETING. THE FOLLOWING MEMBERS WERE PRESENT, TO-WIT:

RUBEN BECERRA	**COUNTY JUDGE**
DEBBIE GONZALES INGALSBE	**COMMISSIONER, PCT. 1**
MARK JONES	**COMMISSIONER, PCT. 2**
LON A. SHELL	**COMMISSIONER, PCT. 3**
WALT SMITH	**COMMISSIONER, PCT. 4**
ELAINE H. CÁRDENAS	**COUNTY CLERK**

Clerk's Note: For complete transcript go to Hays County Website https://hayscountytx.com/commissioners-court/court-video/ Transcript can be translated into any language through Google.com.

THE FOLLOWING PROCEEDINGS WERE HAD, THAT IS:

Judge Becerra recognized the passing of a lifelong community member, Adam Saucedo. Commissioner Jones gave the invocation, asking for comfort for the Saucedo family. Judge Becerra led the court in the Pledge of Allegiance to the United States and Texas flags. Judge Becerra called the meeting to order.

PUBLIC COMMENTS

Harvey Jenkins made a public comment in support of Mark Jones's candidacy for County Judge, asked that leadership create a winter storm contingency plan, and raised concerns about alleged misappropriation of funds. Rodrigo Amaya made a public comment on what is unethical in the legal profession, noted the County's Lost Pines water deal and raised concerns about price gouging in the County's towing industry. Dan Lyon made a public comment asking where to receive his bounty for feral hog tails and spoke against the County's taxing policies, especially during COVID-19.

37101 ADOPT A PROCLAMATION TO RECOGNIZE THE CONTRIBUTIONS OF THE LIPAN APACHE TRIBE TO HAYS COUNTY.

Commissioner Jones amended the Proclamation to replace the word "recognize" with "acknowledge" due to the County not having the authority to recognize the tribe. Bernard Barcena, Tribal Chairman of the Lipan Apache Tribe, spoke on the area's rich tribal history and thanked the Court for the Proclamation. **A motion was made by Commissioner Jones, seconded by Commissioner Ingalsbe to adopt a Proclamation to acknowledge the contributions of the Lipan Apache Tribe to Hays County All present voted "Aye." MOTION PASSED.**

37102 APPROVE PAYMENTS OF COUNTY INVOICES.

A motion was made by Commissioner Ingalsbe, seconded by Commissioner Jones to approve payments of County invoices. All present voted "Aye." MOTION PASSED.

37103 APPROVE PAYMENTS OF JUROR CHECKS.

A motion was made by Commissioner Ingalsbe, seconded by Commissioner Jones to approve payments of Juror checks. All present voted "Aye." MOTION PASSED.

37104 APPROVE COMMISSIONERS COURT MINUTES OF SEPTEMBER 21, 2021, OCTOBER 5, 2021 AND OCTOBER 12, 2021, OCTOBER 15, 2021, OCTOBER 19, 2021 AND NOVEMBER 2, 2021.

A motion was made by Commissioner Ingalsbe, seconded by Commissioner Jones to approve Commissioners Court Minutes of September 21, 2021, October 5, 2021 and October 12, 2021, October 15, 2021, October 19, 2021 and November 2, 2021. All present voted "Aye." MOTION PASSED.

37105 APPROVE THE PAYMENT OF THE DECEMBER 31, 2021 PAYROLL DISBURSEMENTS IN AN AMOUNT NOT TO EXCEED $4,000,000.00 EFFECTIVE DECEMBER 31, 2021 AND POST TOTALS FOR WAGES, WITHHOLDINGS, DEDUCTIONS AND BENEFITS ON THE HAYS COUNTY WEBSITE ONCE FINALIZED.

A motion was made by Commissioner Ingalsbe, seconded by Commissioner Jones to approve the payment of the December 31, 2021 payroll disbursements in an amount not to exceed $4,000,000.00 effective December 31, 2021 and post totals for wages, withholdings, deductions and benefits on the Hays County website once finalized. All present voted "Aye." MOTION PASSED.

Clerk's Note Agenda Item #6 RE: *AUTHORIZE COUNTYWIDE OPERATIONS | PERSONAL HEALTH TO PURCHASE TWO (2) DELL LATITUDE 5520 WITH DOCKING, TWO (2) MONITORS, AND TWO (2) ADOBE LICENSES FOR THE TWO NEWLY HIRED POSITIONS WORKING UNDER THE PUBLIC HEALTH WORKFORCE GRANT.* **– WAS PULLED.**

37106 APPROVE AND CONFIRM THE APPOINTMENT OF LEIA BOGGS AS DEPUTY CONSTABLE BAILIFF IN THE HAYS COUNTY CONSTABLE PRECINCT 1 OFFICE, EFFECTIVE DATE DECEMBER 21, 2021.

Constable Peterson reintroduced Leia Boggs to the Court and stated she is advancing from a Reserve Deputy Constable to Deputy Constable. **A motion was made by Commissioner Ingalsbe, seconded by Commissioner Jones to approve and confirm the appointment of Leia Boggs as Deputy Constable Bailiff in the Hays County Constable Precinct 1 Office, effective date December 21, 2021. All present voted "Aye." MOTION PASSED.**

37107 AUTHORIZE THE SUBMISSION OF A COMMITMENT OF FUNDS LETTER TO THE TEXAS DEPARTMENT OF EMERGENCY MANAGEMENT, HAZARD MITIGATION GRANT PROGRAM, FOR THE HAYS COUNTY HAZARD MITIGATION PLAN UPDATE PROJECT.

Rodrigo Amaya made a public comment raising concerns about Emergency Services and asked where residents can go to see what has been done in preparation for possible severe winter weather. Judge Becerra noted outreach that has taken place, including Spanish media interviews he has done outlining the emergency plan, the plan being published in the Daily Record, and the plan being available on the County website. **A motion was made by Commissioner Jones, seconded by Commissioner Shell to authorize the submission of a commitment of funds letter to the Texas Department of Emergency Management, Hazard Mitigation Grant Program, for the Hays County Hazard Mitigation Plan Update Project. All present voted "Aye." MOTION PASSED.**

37108 AUTHORIZE THE EXECUTION OF THE FY 2022 GRANT AGREEMENT WITH THE U.S. DEPARTMENT OF JUSTICE, DRUG ENFORCEMENT ADMINISTRATION FOR OVERTIME REIMBURSEMENTS RELATED TO THE SHERIFF'S OFFICE ORGANIZED CRIME DRUG ENFORCEMENT TASK FORCE (OCDETF), OPERATION CARRERA DE TORTUGAS, AND AMEND THE BUDGET ACCORDINGLY.

Rodrigo Amaya made a public comment concerning the Sheriff's Office and what it is doing to seize drugs. **A motion was made by Commissioner Ingalsbe, seconded by Commissioner Shell to authorize the execution of the FY 2022 Grant Agreement with the U.S. Department of Justice, Drug Enforcement Administration for overtime reimbursements related to the Sheriff's Office Organized Crime Drug Enforcement Task Force (OCDETF), Operation Carrera de Tortugas, and amend the budget accordingly. All present voted "Aye." MOTION PASSED.**

37109 AUTHORIZE THE EXECUTION OF THE FY 2022 GRANT AGREEMENT WITH THE U.S. DEPARTMENT OF JUSTICE, DRUG ENFORCEMENT ADMINISTRATION FOR OVERTIME REIMBURSEMENTS RELATED TO THE SHERIFF'S OFFICE ORGANIZED CRIME DRUG ENFORCEMENT TASK FORCE (OCDETF), OPERATION CATRACHO PIJIN, AND AMEND THE BUDGET ACCORDINGLY.

A motion was made by Commissioner Ingalsbe, seconded by Commissioner Jones to authorize the execution of the FY 2022 Grant Agreement with the U.S. Department of Justice, Drug Enforcement Administration for overtime reimbursements related to the Sheriff's Office Organized Crime Drug Enforcement Task Force (OCDETF), Operation Catracho Pijin, and amend the budget accordingly. All present voted "Aye." MOTION PASSED.

37110 AUTHORIZE THE SHERIFF'S OFFICE TO USE SALARY SAVINGS FOR PROFESSIONAL WELLNESS SERVICES WITH TANIA GLENN & ASSOCIATES, PA AND AMEND THE BUDGET ACCORDINGLY.

A motion was made by Commissioner Ingalsbe, seconded by Commissioner Jones to authorize the Sheriff's Office to use salary savings for professional wellness services with Tania Glenn & Associates, PA and amend the budget accordingly. All present voted "Aye." MOTION PASSED.

37111 AMEND THE JAIL'S OPERATING BUDGET FOR HVAC REPAIRS IN WHICH INSURANCE PROCEEDS WERE RECEIVED.

Rodrigo Amaya made a public comment asking for justification of the expense. Commissioner Shell commented that the expense was incurred due to lightning damage. **A motion was made by Commissioner Ingalsbe, seconded by Commissioner Jones to Amend the Jail's Operating budget for HVAC repairs in which insurance proceeds were received. All present voted "Aye." MOTION PASSED.**

37112 APPROVE EXTENSION OF RFP 2016-P06 BANK DEPOSITORY WITH SAGE CAPITAL BANK, N.A. FOR A PERIOD NOT TO EXCEED 90 DAYS (MARCH 31, 2022) AND AMEND THE BUDGET ACCORDINGLY.

A motion was made by Commissioner Ingalsbe, seconded by Commissioner Shell to approve extension of RFP 2016-P06 Bank Depository with Sage Capital Bank, N.A. for a period not to exceed 90 days (March 31, 2022) and amend the budget accordingly. All present voted "Aye." MOTION PASSED.

37113 APPROVE THE REAPPOINTMENT OF CHRIS BAKER TO THE BOARD OF EMERGENCY SERVICES DISTRICT (ESD) #9, TWO YEAR TERM ENDING DECEMBER 31, 2023.

Commissioner Smith thanked Chris Baker for his service to the ESD. He also thanked Sarah Hall for her work with Child Protective Services Board. **A motion was made by Commissioner Ingalsbe, seconded by Commissioner Shell to approve the reappointment of Chris Baker to the board of Emergency Services District (ESD) #9, two year term ending December 31, 2023. All present voted "Aye." MOTION PASSED.**

37114 APPROVE THE REAPPOINTMENT OF BETH SMITH TO THE BOARD OF EMERGENCY SERVICES DISTRICT (ESD) #5, TWO YEAR TERM ENDING DECEMBER 31, 2023.

Commissioner Smith thanked Beth Smith for her service to the ESD. **A motion was made by Commissioner Ingalsbe, seconded by Commissioner Shell to approve the reappointment of Beth Smith to the board of Emergency Services District (ESD) #5, two year term ending December 31, 2023. All present voted "Aye." MOTION PASSED.**

37115 APPROVE UTILITY PERMITS.

A motion was made by Commissioner Ingalsbe, seconded by Commissioner Shell to approve Utility Permits. All present voted "Aye." MOTION PASSED.

37116 AUTHORIZE THE COUNTY JUDGE TO EXECUTE A FIRST AMENDED AND RESTATED INTERLOCAL COOPERATIVE AGREEMENT BETWEEN HAYS COUNTY, THE WIMBERLEY INDEPENDENT SCHOOL DISTRICT, AND THE HAYS COUNTY CONSTABLE, PRECINCT 3 RELATED TO TRAFFIC-RELATED LAW ENFORCEMENT SERVICES.

Don Montague, Precinct 3 Constable, gave background on the agreement per Judge Becerra's request. Commissioner Shell thanked Constable Montague for his work with the school districts. **A motion was made by Commissioner Ingalsbe, seconded by Commissioner Shell to authorize the County Judge to execute a First Amended and Restated Interlocal Cooperative Agreement between Hays County, the Wimberley Independent School District, and the Hays County Constable, Precinct 3 related to traffic-related law enforcement services. All present voted "Aye." MOTION PASSED.**

37117 AUTHORIZE A BUDGET AMENDMENT TO THE ST. DAVID'S COVID-19 VACCINE DISTRIBUTION AND ADMINISTRATION SUPPORT GRANT.

A motion was made by Commissioner Ingalsbe, seconded by Commissioner Shell to authorize a budget amendment to the St. David's COVID-19 Vaccine Distribution and Administration Support Grant. All present voted "Aye." MOTION PASSED.

37118 APPROVE THE APPOINTMENTS OF BETTY BRITTAIN CLEM CANTU, ALEXANDRA MYLIUS AND MONETA RIOS TO THE HAYS COUNTY CHILD PROTECTIVE BOARD, 3 YEAR TERMS ENDING 12/31/24.

A motion was made by Commissioner Ingalsbe, seconded by Commissioner Shell to approve the appointments of Betty Brittain Clem Cantu, Alexandra Mylius and Moneta Rios to the Hays County Child Protective Board, 3 year terms ending 12/31/24. All present voted "Aye." MOTION PASSED.

37119 APPROVE THE REAPPOINTMENTS OF LEE IKELS, JUNE HANKINS, MARY CAUBLE AND ESPERANZA OROSCO TO THE HAYS COUNTY CHILD PROTECTIVE BOARD, 3 YEAR TERMS ENDING 12/31/24.

A motion was made by Commissioner Ingalsbe, seconded by Commissioner Shell to approve the reappointments of Lee Ikels, June Hankins, Mary Cauble and Esperanza Orosco to the Hays County Child Protective Board, 3 year terms ending 12/31/24. All present voted "Aye." MOTION PASSED.

37120 AUTHORIZE THE COUNTY JUDGE TO EXECUTE AMENDMENT NO. 1 TO THE FUNDING AGREEMENT WITH THE HAYS-CALDWELL WOMEN'S CENTER (HCWC) RELATED TO TRANSITIONAL HOUSING.

A motion was made by Commissioner Ingalsbe, seconded by Commissioner Shell to authorize the County Judge to execute Amendment No. 1 to the Funding Agreement with the Hays-Caldwell Women's Center (HCWC) related to transitional housing. All present voted "Aye." MOTION PASSED.

37121 AUTHORIZE PAYMENT TO APPLIED CONCEPTS, INC. IN THE AMOUNT OF $781.06 FOR THE DEPARTMENT OF PUBLIC SAFETY HAYS COUNTY DIVISION RELATED TO INCREASED CONTRACT COSTS FOR THE TROOPER'S RADAR SYSTEMS.

Rodrigo Amaya made a public comment raising concerns about the length of the contract, fees, and other issues. Amaya noted that the contract listed in the agenda's backup is for another county. Judge Becerra asked General Counsel for remarks. Mark Kennedy, General Counsel, responded that the contract listed in backup is not ours and that the only relevant piece is the invoice. County Auditor Marisol Villarreal-Alonzo added that the Auditor's Office included the contract in backup per the Court's previous request. Commissioner Ingalsbe remarked that DPS provides a needed service. DPS representative Corporal Larry Harrison spoke on the item, adding that the contract is renewed every 4 years. **A motion was made by Commissioner Ingalsbe, seconded by Commissioner Jones to authorize payment to Applied Concepts, Inc. in the amount of $781.06 for the Department of Public Safety Hays County Division related to increased contract costs for the trooper's radar systems. All present voted "Aye." MOTION PASSED.**

37122 AUTHORIZE THE HAYS COUNTY CRIMINAL DISTRICT ATTORNEY TO PURCHASE 50 NET MOTION SOFTWARE LICENSES UTILIZING SALARY SAVINGS AND AMEND THE BUDGET ACCORDINGLY.

A motion was made by Commissioner Smith, seconded by Commissioner Shell to authorize the Hays County Criminal District Attorney to purchase 50 Net Motion software licenses utilizing salary savings and amend the budget accordingly. All present voted "Aye." MOTION PASSED.

37123 AUTHORIZE THE COUNTY JUDGE TO EXECUTE AN AMENDMENT TO THE LICENSE AND SERVICES AGREEMENT WITH TYLER TECHNOLOGIES, INC. FOR THE JURY MANAGER SOFTWARE.

A motion was made by Commissioner Smith, seconded by Commissioner Shell to authorize the County Judge to execute an Amendment to the License and Services Agreement with Tyler Technologies, Inc. for the Jury Manager Software. All present voted "Aye." MOTION PASSED.

37124 FINALIZE VEHICLE LEASES FOR VARIOUS DEPARTMENTS WITH ENTERPRISE FLEET MANAGEMENT AS OUTLINED IN THE FY 2022 BUDGET PROCESS AND AMEND THE BUDGET ACCORDINGLY.

Commissioner Smith noted these leases capture the equity for new vehicles. **A motion was made by Commissioner Smith, seconded by Commissioner Shell to finalize vehicle leases for various departments with Enterprise Fleet Management as outlined in the FY 2022 budget process and amend the budget accordingly. All present voted "Aye." MOTION PASSED.**

37125 AUTHORIZE THE COUNTY JUDGE TO EXECUTE CHANGE ORDER #4 BETWEEN HAYS COUNTY AND TURNER CONSTRUCTION FOR WORK RELATED TO THE HAYS COUNTY PUBLIC SAFETY BOND PROJECT.

A motion was made by Commissioner Smith, seconded by Commissioner Shell to authorize the County Judge to execute Change Order #4 between Hays County and Turner Construction for work related to the Hays County Public Safety Bond Project. All present voted "Aye." MOTION PASSED.

37126 APPROVE SPECIFICATIONS FOR IFB 2022-B08 DARDEN HILL AT SAWYER RANCH ROUNDABOUT AND AUTHORIZE PURCHASING TO SOLICIT FOR BIDS AND ADVERTISE.

Commissioner Smith stated he hopes to have this roundabout completed by the beginning of the school year in August. **A motion was made by Commissioner Smith, seconded by Commissioner Shell to approve specifications for IFB 2022-B08 Darden Hill at Sawyer Ranch Roundabout and authorize Purchasing to solicit for bids and advertise. All present voted "Aye." MOTION PASSED.**

37127 DISCUSSION AND POSSIBLE ACTION TO AUTHORIZE THE COUNTY JUDGE TO EXECUTE AMENDMENT #3 TO THE ADVANCE FUNDING AGREEMENT BETWEEN HAYS COUNTY AND THE TEXAS DEPARTMENT OF TRANSPORTATION (TXDOT) FOR THE RM 12 AND RM 3237 INTERSECTION IMPROVEMENT PROJECT.

Commissioner Shell gave background information on the project. Commissioner Jones added that this is one of six projects approved for the County. **A motion was made by Commissioner Shell, seconded by Commissioner Jones to authorize the County Judge to execute Amendment #3 to the Advance Funding Agreement between Hays County and the Texas Department of Transportation (TxDOT) for the RM 12 and RM 3237 Intersection Improvement project. All present voted "Aye." MOTION PASSED.**

37128 DISCUSSION AND POSSIBLE ACTION TO CONSIDER THE RELEASE OF THE LETTER OF CREDIT #20214330 IN THE AMOUNT OF $362,008.18 FOR 6 CREEKS SUBD., PHASE 1, SECTION 4A.

A motion was made by Commissioner Smith, seconded by Commissioner Shell to release the Letter of Credit #20214330 in the amount of $362,008.18 for 6 Creeks subd., Phase 1, Section 4a. All present voted "Aye." MOTION PASSED.

37129 HOLD A PUBLIC HEARING WITH POSSIBLE ACTION TO ESTABLISH A "NO PARKING" ZONE ALONG BOTH SIDES OF BLISS SPILLAR ROAD BETWEEN SEPTEMBER SONG DRIVE AND THE END OF BLISS SPILLAR ROAD.

Judge Becerra opened the public hearing at 10:50 a.m. No comments were made. Judge Becerra closed the public hearing at 10:50 a.m. Commissioner Jones gave background information on the agenda item. **A motion was made by Commissioner Smith, seconded by Commissioner Jones to establish a "No Parking" zone along both sides of Bliss Spillar Road between September Song Drive and the end of Bliss Spillar Road. All present voted "Aye." MOTION PASSED.**

37130 DISCUSSION AND POSSIBLE ACTION TO AUTHORIZE THE COUNTY JUDGE TO EXECUTE CONTRACT AMENDMENT NO. 1 IN THE AMOUNT OF $8,370.00 TO THE PROFESSIONAL SERVICES AGREEMENT BETWEEN HAYS COUNTY AND WSB & ASSOCIATES, INC. FOR THE RM 967 (WEST OF OAK FOREST DRIVE) SAFETY IMPROVEMENTS PROJECT AS PART OF THE HAYS COUNTY ROAD BOND PROGRAM.

Commissioner Smith gave background information on the agenda item. **A motion was made by Commissioner Smith, seconded by Commissioner Jones to authorize the County Judge to execute Contract Amendment No. 1 in the amount of $8,370.00 to the Professional Services Agreement between Hays County and WSB & Associates, Inc. for the RM 967 (West of Oak Forest Drive) Safety Improvements project as part of the Hays County Road Bond Program. All present voted "Aye." MOTION PASSED.**

37131 DISCUSSION AND POSSIBLE ACTION TO AUTHORIZE THE COUNTY JUDGE TO EXECUTE CONTRACT AMENDMENT NO. 2IN THE AMOUNT OF $50,000.00 TO THE PROFESSIONAL SERVICES AGREEMENT BETWEEN HAYS COUNTY AND BGE, INC. TO PROVIDE CONSTRUCTION ENGINEERING, INSPECTION & TESTING (CE&I) SERVICES AS PART OF THE ON-CALL CE&I CONTRACT AND RELATED TO THE 2016 ROAD BOND PROGRAM US 290 WEST AT HENLY LOOP PROJECT.

A motion was made by Commissioner Shell, seconded by Commissioner Smith to authorize the County Judge to execute Contract Amendment No. 2 in the amount of $50,000.00 to the Professional Services Agreement between Hays County and BGE, Inc. to provide construction engineering, inspection & testing (CE&I) services as part of the On-Call CE&I contract and related to the 2016 Road Bond Program US 290 West at Henly Loop project. All present voted "Aye." MOTION PASSED.

37132 DISCUSSION AND POSSIBLE ACTION TO CONSIDER THE ACCEPTANCE OF ROAD CONSTRUCTION & SURFACE DRAINAGE IMPROVEMENTS AND ACCEPTANCE OF THE 2-YEAR MAINTENANCE BOND #800131704 IN THE AMOUNT OF $159,343.74 FOR HEADWATERS AT BARTON CREEK SUBD., PHASE 4-SECTION 2, PHASE 4-SECTION 4, AND PHASE 5-SECTION 1.

A motion was made by Commissioner Smith, seconded by Commissioner Shell to approve the acceptance of road construction & surface drainage improvements and acceptance of the 2-year maintenance bond #800131704 in the amount of $159,343.74 for Headwaters at Barton Creek subd., Phase 4-Section 2, Phase 4-Section 4, and Phase 5-Section 1. All present voted "Aye." MOTION PASSED.

37133 DISCUSSION AND POSSIBLE ACTION TO CONSIDER THE ACCEPTANCE OF ROAD CONSTRUCTION & SURFACE DRAINAGE IMPROVEMENTS, RELEASE OF THE CONSTRUCTION BOND #PH3010406555 IN THE AMOUNT OF $843,062.00, AND ACCEPTANCE OF THE 2-YEAR MAINTENANCE BOND #800131703 IN THE AMOUNT OF $75,763.60 FOR HEADWATERS AT BARTON CREEK SUBD., PHASE 4-SECTION 5.

A motion was made by Commissioner Smith, seconded by Commissioner Jones to accept road construction & surface drainage improvements, release of the construction bond #PH3010406555 in the amount of $843,062.00, and to accept the 2-year maintenance bond #800131703 in the amount of $75,763.60 for Headwaters at Barton Creek subd., Phase 4-Section 5. All present voted "Aye." MOTION PASSED.

37134 DISCUSSION AND POSSIBLE ACTION TO CONSIDER THE ACCEPTANCE OF ROAD CONSTRUCTION & SURFACE DRAINAGE IMPROVEMENTS, RELEASE OF THE CONSTRUCTION BOND #PB3010406556 IN THE AMOUNT OF $1,175,523.65, AND ACCEPTANCE OF THE 5-YEAR MAINTENANCE BOND #800131707 IN THE AMOUNT OF $21,617.40 FOR HEADWATERS AT BARTON CREEK SUBD., PHASE 4-SECTION 6.

A motion was made by Commissioner Smith, seconded by Commissioner Shell to accept construction & surface drainage improvements, release of the construction bond #PB3010406556 in the amount of $1,175,523.65, and to accept the 5-year maintenance bond #800131707 in the amount of $21,617.40 for Headwaters at Barton Creek subd., Phase 4-Section 6. All present voted "Aye." MOTION PASSED.

37135 DISCUSSION AND POSSIBLE ACTION AUTHORIZE THE COUNTY JUDGE TO EXECUTE AMENDMENT #1 TO AN AGREEMENT BETWEEN HAYS COUNTY AND THE TEXAS DEPARTMENT OF TRANSPORTATION FOR A LOCAL ON-SYSTEM IMPROVEMENT PROJECT ON FM 2770, EXECUTED ON SEPTEMBER 6, 2019.

A motion was made by Commissioner Jones, seconded by Commissioner Ingalsbe to authorize the County Judge to execute Amendment #1 to an Agreement between Hays County and the Texas Department of Transportation for a Local On-System Improvement Project on FM 2770, executed on September 6, 2019. All present voted "Aye." MOTION PASSED.

37136 DISCUSSION AND POSSIBLE ACTION TO AUTHORIZE THE COUNTY JUDGE TO EXECUTE CONTRACT AMENDMENT NO. 3 IN THE AMOUNT OF $2,150,000.00 TO THE PROFESSIONAL SERVICES AGREEMENT BETWEEN HAYS COUNTY AND AMERICAN STRUCTUREPOINT, INC FOR THE RM 3237 SAFETY IMPROVEMENTS FROM RM 150 TO RM 12 PROJECT IN PRECINCT 3, AS PART OF THE 2016 ROAD BOND PROGRAM UTILIZING A DISCRETIONARY EXEMPTION PURSUANT TO TEXAS LOCAL GOVERNMENT CODE CH. 262.024(A)(4).

Commissioner Shell provided background information on the project. **A motion was made by Commissioner Shell, seconded by Commissioner Smith to authorize the County Judge to execute Contract Amendment No. 3 in the amount of $2,150,000.00 to the Professional Services Agreement between Hays County and American Structurepoint, Inc for the RM 3237 Safety Improvements from RM 150 to RM 12 project in Precinct 3, as part of the 2016 Road Bond Program utilizing a discretionary exemption pursuant to Texas Local Government Code Ch. 262.024(a)(4). All present voted "Aye." MOTION PASSED.**

37137 DISCUSSION AND POSSIBLE ACTION TO APPROVE THE SELECTION OF LJA ENGINEERING, INC. TO PROVIDE RIGHT-OF-WAY ACQUISITION SERVICES FOR THE RM 150 WEST ALIGNMENT IN PRECINCT 3; AND TO AUTHORIZE STAFF AND COUNSEL TO NEGOTIATE A CONTRACT.

Commissioner Shell provided background information on the project. Commissioner Smith clarified that "150 West" refers to west of I-35, ending at 150 outside of Kyle at the Arroyo Ranches subdivision. **A motion was made by Commissioner Shell, seconded by Commissioner Smith to approve the selection of LJA Engineering, Inc. to provide right-of-way acquisition services for the RM 150 West Alignment in Precinct 3; and to authorize staff and counsel to negotiate a contract. All present voted "Aye." MOTION PASSED.**

37138 DISCUSSION AND POSSIBLE ACTION TO AUTHORIZE THE COUNTY JUDGE TO EXECUTE CHANGE ORDER NO. 2, TIME EXTENSION, TO THE PROFESSIONAL SERVICES AGREEMENT BETWEEN HAYS COUNTY AND RPS INFRASTRUCTURE, INC. FOR DESIGN SERVICES ON THE RM 12 AT RM 3237 INTERSECTION IMPROVEMENTS PROJECT IN PRECINCT 3 AS PART OF THE ROAD BOND PROGRAM.

Dan Lyon made a public comment stating that the County has a problem projecting time and costs needed to complete projects. Commissioner Shell provided background information on the project and the County's partnership with the state. **A motion was made by Commissioner Shell, seconded by Commissioner Smith to authorize the County Judge to execute Change Order No. 2, time extension, to the Professional Services Agreement between Hays County and RPS Infrastructure, Inc. for design services on the RM 12 at RM 3237 Intersection Improvements project in Precinct 3 as part of the Road Bond Program. All present voted "Aye." MOTION PASSED.**

37139 DISCUSSION AND POSSIBLE ACTION TO AUTHORIZE THE COUNTY JUDGE TO EXECUTE CONTRACT AMENDMENT NO. 1 IN THE AMOUNT OF $25,000.00 AND TO ADD NEW RATE CATEGORIES TO THE PROFESSIONAL SERVICES AGREEMENT BETWEEN RPS INFRASTRUCTURE, INC. FOR THE RM 12 AT RM 3237 INTERSECTION PROJECT IN PRECINCT 3, AS PART OF THE 2016 ROAD BOND PROGRAM.

Commissioner Shell provided background information on this agenda item. **A motion was made by Commissioner Shell, seconded by Commissioner Jones to authorize the County Judge to execute Contract Amendment No. 1 in the amount of $25,000.00 and to add new rate categories to the Professional Services Agreement between RPS Infrastructure, Inc. for the RM 12 at RM 3237 intersection project in Precinct 3, as part of the 2016 Road Bond Program. All present voted "Aye." MOTION PASSED.**

37140 DISCUSSION AND POSSIBLE ACTION TO APPROVE LICENSE AGREEMENT BETWEEN HAYS COUNTY, THE CITY OF SAN MARCOS AND THE TEXAS DEPARTMENT OF TRANSPORTATION (TXDOT), BY AND THROUGH HAYS COUNTY, FOR THE FM 110 NORTH PROJECT AND AUTHORIZE THE COUNTY JUDGE TO EXECUTE LICENSE AGREEMENT ON BEHALF OF HAYS COUNTY.

Commissioner Ingalsbe noted that this license allows TXDOT to work on County-owned property. **A motion was made by Commissioner Ingalsbe, seconded by Commissioner Jones to approve License Agreement between Hays County, the City of San Marcos and the Texas Department of Transportation (TxDOT), by and through Hays County, for the FM 110 North project and authorize the County Judge to execute License Agreement on behalf of Hays County. All present voted "Aye." MOTION PASSED.**

Clerk's Note Agenda Item #42 RE: *DISCUSSION AND POSSIBLE ACTION TO AUTHORIZE THE COUNTY JUDGE TO EXECUTE A QUIT CLAIM DEED FOR PROPERTY LOCATED ALONG FITZHUGH ROAD IN PRECINCT 4, THE STATUS OF WHICH AS COUNTY RIGHT OF WAY HAS BEEN CALLED TO QUESTION.* **– WAS PULLED.**

Clerk's Note: Judge Becerra allowed for public comments as the item was listed on the agenda. Dan Lyon made a public comment against change orders and time extensions.

37141 PLN-1816-NP; DISCUSSION AND POSSIBLE ACTION TO APPROVE THE FINAL PLAT FOR THE STRAUSS SUBDIVISION.

Property owners Whitnie Strauss and Steve Strauss made public comments on their plans to develop a single-family residence on the plat. Colby Machacek, County Planner, provided background information for this agenda item. Commissioner Smith asked that in future plat-related agenda items, submitters include the nearest city for clarity (e.g., "Near the City of Dripping Springs"). **A motion was made by Commissioner Smith, seconded by Commissioner Shell to approve the final plat for the Strauss Subdivision. All present voted "Aye." MOTION PASSED.**

37142 PLN-1846; HOLD A PUBLIC HEARING WITH POSSIBLE ACTION TO APPROVE THE CANCELLATION OF LOT 2-A IN THE HENDERSON SUBDIVISION.

Judge Becerra opened the public hearing at 11:09 a.m. No comments were made. Judge Becerra closed the public hearing at 11:09 a.m. Colby Machacek, County Planner, stated that all property owners involved have requested to cancel lot 2A and revert it back to raw land. A cancellation document will be executed soon. **A motion was made by Commissioner Smith, seconded by Commissioner Jones to approve the cancellation of Lot 2-A in the Henderson Subdivision. All present voted "Aye." MOTION PASSED.**

37143 PLN-1739-NP; BLUFF SPRINGS ESTATES, PRELIMINARY PLAN. DISCUSSION AND POSSIBLE ACTION TO APPROVE THE PRELIMINARY PLAN.

Colby Machacek, County Planner, provided background information for this agenda item. **A motion was made by Commissioner Shell, seconded by Commissioner Smith to approve the preliminary plan. All present voted "Aye." MOTION PASSED.**

37144 PLN-1820-NP; DISCUSSION AND POSSIBLE ACTION TO APPROVE THE FINAL PLAT FOR RAINBOW RANCH, LOTS 77B AND 78B.

Colby Machacek, Development Services, provided background information for this agenda item. **A motion was made by Commissioner Shell, seconded by Commissioner Smith to approve the final plat for Rainbow Ranch, Lots 77B and 78B. All present voted "Aye." MOTION PASSED.**

37145 PLN-1836-NP; HAWK RIDGE, PHASE 1 SUBDIVISION (30 LOTS). DISCUSSION AND POSSIBLE ACTION TO ACCEPT THE PERFORMANCE BOND NO. 4448662 IN THE AMOUNT OF $424,061.00 FOR STREET, EROSION, AND DRAINAGE IMPROVEMENTS AND GRANT APPROVAL OF THE FINAL PLAT.

A motion was made by Commissioner Smith, seconded by Commissioner Shell to accept the Performance Bond No. 4448662 in the amount of $424,061.00 for street, erosion, and drainage improvements and grant approval of the final plat. All present voted "Aye." MOTION PASSED.

37146 DISCUSSION AND POSSIBLE ACTION TO AUTHORIZE THE EXECUTION OF THE FY22 TEXAS INDIGENT DEFENSE COMMISSION (TIDC) GRANT AWARD FOR THE HAYS COUNTY INDIGENT DEFENSE COORDINATOR PROGRAM IN THE AMOUNT OF $79,804.

Rodrigo Amaya made a public comment concerning the Indigent Defense Commission. Commissioner Shell voiced appreciation for the Grants Administration Department's work and the partnership with TIDC. Commissioner Ingalsbe also voiced appreciation for TIDC's work. **A motion was made by Commissioner Ingalsbe, seconded by Commissioner Shell to authorize the execution of the FY22 Texas Indigent Defense Commission (TIDC) grant award for the Hays County Indigent Defense Coordinator Program in the amount of $79,804. All present voted "Aye." MOTION PASSED.**

37147 DISCUSSION AND POSSIBLE ACTION TO AWARD THE CONTRACT FOR IFB 2021-B09 US 290 W - HENLY LOOP TO LONE STAR SITEWORK, LLC.

A motion was made by Commissioner Shell, seconded by Commissioner Jones to award the contract for IFB 2021-B09 US 290 W - Henly Loop to Lone Star Sitework, LLC. All present voted "Aye." MOTION PASSED.

37148 DISCUSSION AND POSSIBLE ACTION TO AUTHORIZE THE EXECUTION OF AN INTERLOCAL COOPERATION AGREEMENT BETWEEN HAYS COUNTY AND TEXAS STATE UNIVERSITY TO BE PERFORMED BY THE MEADOWS CENTER FOR WATER AND THE ENVIRONMENT RELATED TO THE FY22 HAYS COUNTY FERAL HOG ABATEMENT PROGRAM.

Dan Lyon made a public comment voicing difficulty obtaining the $5.00 bounty for feral hog tails. **A motion was made by Commissioner Jones, seconded by Commissioner Smith to authorize the execution of an Interlocal Cooperation Agreement between Hays County and Texas State University to be performed by the Meadows Center for Water and the Environment related to the FY22 Hays County Feral Hog Abatement Program. All present voted "Aye." MOTION PASSED.**

37149 DISCUSSION AND POSSIBLE ACTION TO APPROVE TEXAS A&M AGRILIFE EXTENSION SERVICE'S HIRING OF AARON MCCOY AS THE AGRICULTURE AND NATURAL RESOURCES (ANR) EXTENSION AGENT FOR HAYS COUNTY.

Michael Haynes, District 10 Extension Administrator, presented Aaron McCoy as the new Extension Agent for the County. McCoy introduced himself and spoke of his love for 4H and agriculture and addressed his plans. Commissioner Smith encouraged McCoy to prioritize community outreach to maintain the youth 4H program and offered his assistance as needed. **A motion was made by Commissioner Ingalsbe, seconded by Commissioner Jones to approve Texas A&M AgriLife Extension Service's hiring of Aaron McCoy as the Agriculture and Natural Resources (ANR) Extension Agent for Hays County. All present voted "Aye." MOTION PASSED.**

37150 DISCUSSION AND POSSIBLE ACTION TO AUTHORIZE THE COUNTY JUDGE TO EXECUTE AN EIGHTH AMENDMENT TO THE HEALTH CARE SERVICES AGREEMENT WITH WELLPATH, LLC FOR THE JAIL DIVISION AT THE SHERIFF'S OFFICE AND AUTHORIZE A DISCRETIONARY EXEMPTION PURSUANT TO TEXAS LOCAL GOVERNMENT CODE, CH 262.024(A)(4).

A motion was made by Commissioner Ingalsbe, seconded by Commissioner Jones to execute an Eighth Amendment to the Health Care Services Agreement with Wellpath, LLC for the Jail Division at the Sheriff's Office and authorize a discretionary exemption pursuant to Texas Local Government Code, Ch 262.024(a)(4). All present voted "Aye." MOTION PASSED.

37151 DISCUSSION AND POSSIBLE ACTION TO AUTHORIZE THE COUNTY JUDGE TO EXECUTE A THIRD AMENDMENT TO THE HEALTH CARE SERVICES AGREEMENT WITH WELLPATH, LLC FOR THE JUVENILE DETENTION FACILITY AND AUTHORIZE A DISCRETIONARY EXEMPTION PURSUANT TO TEXAS LOCAL GOVERNMENT CODE, CH 262.024(A)(4).

A motion was made by Commissioner Ingalsbe, seconded by Commissioner Jones to execute a Third Amendment to the Health Care Services Agreement with Wellpath, LLC for the Juvenile Detention Facility and authorize a discretionary exemption pursuant to Texas Local Government Code, Ch 262.024(a)(4).). All present voted "Aye." MOTION PASSED.

37152 DISCUSSION AND POSSIBLE ACTION TO GRANT A VARIANCE FROM THE HAYS COUNTY DEVELOPMENT REGULATIONS CHAPTER 705 § 3.01(C).

Commissioner Shell and Marcus Pacheco, Development Services Director, provided background on the item. Judge Becerra confirmed with Pacheco that the variance causes no concerns with Emergency Services. **A motion was made by Commissioner Shell, seconded by Commissioner Smith to grant a variance from the Hays County Development Regulations Chapter 705 § 3.01(C). All present voted "Aye." MOTION PASSED.**

37153 DISCUSSION AND POSSIBLE ACTION TO APPROVE AMENDMENT #1 TO THE TEXAS GENERAL LAND OFFICE (GLO) CDBG-MIT GRANT ADMINISTRATION CONTRACT WITH LANGFORD COMMUNITY MANAGEMENT SERVICES, INC. RELATED TO UPDATING THE COUNTY'S HAZARD MITIGATION PLAN.

A motion was made by Commissioner Ingalsbe, seconded by Commissioner Jones to approve Amendment #1 to the Texas General Land Office (GLO) CDBG-MIT Grant Administration Contract with Langford Community Management Services, Inc. related to updating the County's Hazard Mitigation Plan. All present voted "Aye." MOTION PASSED.

37154 HOLD A PUBLIC HEARING IN ACCORDANCE WITH SECTION 293.101 OF THE TEXAS HEALTH AND SAFETY CODE TO HEAR PUBLIC COMMENTS AND CONSIDER ACTION CONCERNING THE AMOUNT OF THE MANDATORY PAYMENTS REQUIRED OF ALL LOCAL HOSPITALS IN FISCAL YEAR (FY) 2022 PURSUANT TO THE COUNTY HEALTH CARE PROVIDER PARTICIPATION PROGRAM AND HOW THE REVENUE DERIVED FROM THOSE PAYMENTS IS TO BE SPENT.

Judge Becerra opened the public hearing at 10:03 a.m. Robin Daniel, representative of Adelanto Healthcare Ventures, spoke on their work helping hospitals access federal funds to treat uninsured patients. Commissioner Shell provided a brief history of the program. Commissioner Ingalsbe thanked Daniel for the program. Tammy Crumley, Director of Countywide Operations, stated she will work with Daniel to get the invoices prepared. Geronimo Rodriguez, Chief Advocacy Officer for Ascension Texas, spoke in favor of the rate. Rodrigo Amaya made public comment to ask for an independent committee to review the 5.15% rate. Judge Becerra closed the public hearing at 10:09 a.m. **A motion was made by Commissioner Shell, seconded by Commissioner Ingalsbe to set the rate for fiscal year (FY) 2022 at 5.15% for the Hays County Local Provider Participation Fund (LPPF). All present voted "Aye." MOTION PASSED.**

37155 DISCUSSION AND POSSIBLE ACTION TO ACCEPT A PROPOSAL FROM BECKWITH ELECTRONIC SYSTEMS, LLC TO REPLACE THE EPSON PROJECTOR AND CONTROL SYSTEM FOR COUNTY COURT AT LAW COURTROOM #2; ALLOW A DISCRETIONARY EXEMPTION PURSUANT TO TEXAS LOCAL GOVERNMENT CODE 262.024A (7)(D) AND AMEND THE BUDGET ACCORDINGLY.

Rodrigo Amaya made a public comment concerning county spending. Commissioner Ingalsbe confirmed that the projector and control system is a necessary item for the courtroom to function. **A motion was made by Commissioner Ingalsbe, seconded by Commissioner Shell to accept a proposal from Beckwith Electronic Systems, LLC to replace the Epson Projector and Control System for County Court at Law Courtroom #2; allow a discretionary exemption pursuant to Texas Local Government Code 262.024A (7)(D) and amend the budget accordingly. All present voted "Aye." MOTION PASSED.**

DISCUSSION AND POSSIBLE ACTION TO DIRECT THE INFORMATION TECHNOLOGY DEPARTMENT TO IDENTIFY AND EXPLORE SOLUTIONS TO TECHNOLOGICAL ISSUES ASSOCIATED WITH THE COMMISSIONERS COURT AUDIO VISUALS PROVIDED BY SWAGIT AND VISIONALITY.

Jeff McGill, IT Director, spoke on his work to streamline audio and visuals in conjunction with County Clerk Elaine Cardenas, working with vendors for solutions, and incorporating the countywide phone system. Judge Becerra, Commissioner Smith, and Elaine Cardenas, County Clerk, discussed the issues at hand and complications with remote workers during Executive Session. McGill emphasized solutions are forthcoming. No action taken.

37156 DISCUSSION AND POSSIBLE ACTION TO AUTHORIZE RELEASE OF PAYMENT BOND #929637539, IN THE AMOUNT OF SEVEN HUNDRED AND FIFTEEN THOUSAND DOLLARS ($715,000.00 USD), RELATED TO THE PURCHASE OF HABITAT MITIGATION CREDITS BY CARMA PASO ROBLES, LLC FOR THE KISSING TREE DEVELOPMENT.

A motion was made by Commissioner Shell, seconded by Commissioner Ingalsbe to authorize release of Payment Bond #929637539, in the amount of seven hundred and fifteen thousand dollars ($715,000.00 USD), related to the purchase of habitat mitigation credits by Carma Paso Robles, LLC for the Kissing Tree development. All present voted "Aye." MOTION PASSED.

37157 DISCUSSION AND POSSIBLE ACTION TO AWARD A CONTRACT FOR IFB 2022-B03 COTTON GIN ROAD - LOW WATER CROSSING WITH SB CONTRACTORS, LLC IN THE AMOUNT OF $838,515.87.

A motion was made by Commissioner Jones, seconded by Commissioner Ingalsbe to award a contract for IFB 2022-B03 Cotton Gin Road - Low Water Crossing with SB Contractors, LLC in the amount of $838,515.87. All present voted "Aye." MOTION PASSED.

37158 DISCUSSION AND POSSIBLE ACTION TO AUTHORIZE THE COUNTY JUDGE TO EXECUTE A CONTRACT AMENDMENT WITH TYLER TECHNOLOGIES, INC. FOR THE SOCRATA SAAS PLATFORM RELATED TO THE HAYS COUNTY CAD/RMS DASHBOARDS.

Jeff McGill, IT Director, gave background information on the agenda item. **A motion was made by Commissioner Shell, seconded by Commissioner Ingalsbe to authorize the County Judge to execute a Contract Amendment with Tyler Technologies, Inc. for the Socrata SaaS Platform related to the Hays County CAD/RMS Dashboards. All present voted "Aye." MOTION PASSED.**

37159 DISCUSSION AND POSSIBLE ACTION TO AUTHORIZE ADDITION OF TWO DJI MAVIC 2 ENTERPRISE ADVANCED UNMANNED AIRCRAFT TO THE HAYS COUNTY GENERAL AND LAW ENFORCEMENT LIABILITY COVERAGE WITH AN ANNUAL PREMIUM OF $2,494.00.

Rodrigo Amaya made a public comment concerning county spending. Judge Becerra clarified this is giving insurance coverage to equipment. **A motion was made by Commissioner Shell, seconded by Commissioner Smith to authorize addition of two DJI Mavic 2 Enterprise Advanced unmanned aircraft to the Hays County General and Law Enforcement liability coverage with an annual premium of $2,494.00. All present voted "Aye." MOTION PASSED.**

37160 DISCUSSION AND POSSIBLE ACTION TO AWARD A CONTRACT FOR IFB 2022-B01 DUTY & TRAINING AMMUNITION WITH PARABELLUM RESEARCH AND BION SOL LLC.

Dan Lyon made a public comment concerning ammunition price and county spending. Harvey Jenkins made a public comment concerning training ammunition size. Marisol Alonzo-Villarreal, County Auditor, confirmed the lowest bid was chosen. Captain Shane Smith, Jail Operations, clarified that the sheriff's department trains with the same caliber of weapons that they carry. **A motion was made by Commissioner Jones, seconded by Commissioner Ingalsbe to award a contract for IFB 2022-B01 Duty & Training Ammunition with Parabellum Research and BION SOL LLC. All present voted "Aye." MOTION PASSED.**

37161 DISCUSSION AND POSSIBLE ACTION TO AUTHORIZE THE COUNTY JUDGE TO EXECUTE A LAW ENFORCEMENT AGREEMENT AND ORDER NUMBER 1 WITH LEXIS NEXIS COPLOGIC SOLUTIONS, INC. RELATED TO THE DESK OFFICE REPORTING SYSTEM (DORS) FOR THE SHERIFF'S OFFICE.

Commissioner Ingalsbe stated this will improve efficiency and minimize the spread of COVID. **A motion was made by Commissioner Ingalsbe, seconded by Commissioner Jones to authorize the County Judge to execute a Law Enforcement Agreement and Order Number 1 with Lexis Nexis Coplogic Solutions, Inc. related to the Desk Office Reporting System (DORS) for the Sheriff's Office. All present voted "Aye." MOTION PASSED.**

Clerk's Note: Judge Becerra called for a recess that began at 10:35 a.m. and resumed back into open court at 10:45 a.m.

Clerk's Note: Executive Session began at 11:21 a.m. and resumed back into open court at 3:01 p.m.

37162 EXECUTIVE SESSION PURSUANT TO SECTIONS 551.071 AND 551.072 OF THE TEXAS GOVERNMENT CODE: CONSULTATION WITH COUNSEL AND DELIBERATION REGARDING THE PURCHASE, EXCHANGE, LEASE AND/OR VALUE OF RIGHT OF WAY LOCATED AT OR NEAR FM 621 IN PCT. 1. POSSIBLE DISCUSSION AND/OR ACTION MAY FOLLOW IN OPEN COURT.

A motion was made by Commissioner Ingalsbe, seconded by Commissioner Jones to authorize acceptance of landowner's counteroffer and execution of purchase and sale documents for the acquisition of parcel No. 4, tracts 1 and 2, from the Estate of Mary Jacqueline Alexander for the FM 621 Improvement Project, as presented in Executive Session. All present voted "Aye." MOTION PASSED.

EXECUTIVE SESSION PURSUANT TO SECTIONS 551.071 AND 551.087 OF THE TEXAS GOVERNMENT CODE: CONSULTATION WITH COUNSEL AND DELIBERATION REGARDING ECONOMIC DEVELOPMENT NEGOTIATIONS ASSOCIATED WITH PROJECT WILD STRAWBERRY. POSSIBLE DISCUSSION AND/OR ACTION MAY FOLLOW IN OPEN COURT.

No action taken.

37163 EXECUTIVE SESSION PURSUANT TO SECTIONS 551.071 AND 551.072 OF THE TEXAS GOVERNMENT CODE: CONSULTATION WITH COUNSEL AND DELIBERATION REGARDING THE PURCHASE, EXCHANGE, LEASE AND/OR VALUE OF REAL PROPERTY ASSOCIATED WITH THE POSAC-RECOMMENDED 2020 PARKS AND OPEN SPACE BOND PROJECTS. POSSIBLE DISCUSSION AND/OR ACTION MAY FOLLOW IN OPEN COURT.

Commissioner Smith commented that projects which the staff/consultant team feels cannot be negotiated pursuant to the Court's recommendation should be brought back to Executive Session for further consideration, there is a goal to distribute some Parks and Open Space Bond monies during the first quarter of 2022, not all projects have been fully discussed by the Commissioners Court, so the staff/consultant team will continue to receive guidance from the Commissioners Court on a regular basis, and day-to-day questions regarding any individual project should be presented to the Commissioner of the precinct in which the project is located, and broader questions or concerns can be brought back to Commissioners Court at a later date. **A motion was made by Commissioner Smith, seconded by Commissioner Jones to instruct Halff Associates to commence work, in collaboration with the Office of General Counsel, as the County's program manager on the 2020 Parks and Open Space Bond projects, negotiating contracts to ensure prudent use of certain POSAC-recommended projects, as discussed and prioritized in Executive Session; and to request that staff bring those negotiated arrangements back for Commissioners Court consideration on a project-by-project basis. All present voted "Aye." MOTION PASSED.**

37164 EXECUTIVE SESSION PURSUANT TO SECTIONS 551.071 AND 551.072 OF THE TEXAS GOVERNMENT CODE: CONSULTATION WITH COUNSEL AND DELIBERATION REGARDING THE PURCHASE, EXCHANGE, LEASE AND/OR VALUE OF REAL PROPERTY LOCATED ON OR NEAR STAGECOACH TRAIL IN SAN MARCOS, TEXAS AND WITHIN PRECINCT 3. POSSIBLE DISCUSSION AND/OR ACTION MAY FOLLOW IN OPEN COURT.

Commissioner Shell commented that the County's contractors are currently working up the costs of repairs to HVAC, the owner/seller is working on some isolated roofing issues, and that the Hays County Elections Department and the Department of Information Technology plan to utilize space, which will help fulfill some important programmatic needs at the Hays County Government Center, utilizing the space those departments have vacated. Judge Becerra commented that the county will benefit from the centralizing of supplies. **A motion was made by Commissioner Shell, seconded by Commissioner Smith to authorize General Counsel to negotiate terms for repair of HVAC and roofing at 120 Stagecoach Trail prior to closing the County's purchase of that property on or about January 5, 2022; and to request that the Auditor's Office and the Treasurer's Office collaborate with the Office of General Counsel to timely fund the closing of that transaction on or about January 5, 2022. All present voted "Aye." MOTION PASSED.**

37165 EXECUTIVE SESSION PURSUANT TO SECTION 551.071 OF THE TEXAS GOVERNMENT CODE: CONSULTATION WITH COUNSEL REGARDING PENDING AND/OR CONTEMPLATED LITIGATION INVOLVING HAYS COUNTY. POSSIBLE ACTION MAY FOLLOW IN OPEN COURT.

A motion was made by Commissioner Ingalsbe, seconded by Commissioner Jones to authorize General Counsel to execute an Engagement Letter between Hays County and Winstead PC for representation related to claims associated with the Public Safety Bond Project(s), as discussed in Executive Session. All present voted "Aye." MOTION PASSED.

EXECUTIVE SESSION PURSUANT TO SECTIONS 551.071 AND 551.074 OF THE TEXAS GOVERNMENT CODE: CONSULTATION WITH COUNSEL AND THE AUDITOR'S OFFICE REGARDING THE EMERGENCY RENTAL ASSISTANCE PROGRAM AND THE EMPLOYMENT AND INDIVIDUAL DUTIES OF ALL POSITIONS CREATED IN RELATION TO THE PROGRAM. POSSIBLE DISCUSSION AND/OR ACTION MAY FOLLOW IN OPEN COURT.

No action taken.

37166 EXECUTIVE SESSION PURSUANT TO SECTION 551.071 AND 551.076 OF THE TEXAS GOVERNMENT CODE: DELIBERATION REGARDING SECURITY DEVICES ASSOCIATED WITH THE HAYS COUNTY PUBLIC SAFETY BUILDING LOCATED AT 810 S. STAGECOACH TRAIL IN SAN MARCOS, TEXAS. POSSIBLE DISCUSSION AND/OR ACTION MAY FOLLOW IN OPEN COURT.

A motion was made by Commissioner Ingalsbe, seconded by Commissioner Jones to authorize the purchase of 11 Dell Precision 3650 computers and 11 monitors for the Public Safety Building, utilizing the Public Safety Bond funds as discussed in Executive Session, and amend the budget accordingly. All present voted "Aye." MOTION PASSED.

Clerk's Note Agenda Item #72 RE: *DISCUSSION AND POSSIBLE ACTION RELATED TO THE BURN BAN AND/OR DISASTER DECLARATION.* **– WAS PULLED.**

DISCUSSION RELATED TO THE HAYS COUNTY INMATE POPULATION, TO INCLUDE CURRENT POPULATION COUNTS AND COSTS.

Judge Becerra read the Sheriff's update of the inmate population. Current maximum jail capacity is 410 inmates. Jail Standards recommends holding 10% open, lowering current capacity to 368 inmates. The jail's daily average was 605, with a peak of 618 on December 17, 2021. The estimated cost for outsourcing inmates was $89,081.00. The average number of outsourced males is 194, females is 17. This week's inmates were housed in the following counties: Atascosa, Blanco, Comal, Fort Bend, Guadalupe, Maverick, and Red River. The number of "paper-ready" inmates who are now wardens of the state has increased from 21 to 31. The number of arrests made by agency are as follows; Buda Police Department - 5, Department of Public Safety - 2, Hays County Sheriff's Department – 70, Constable Precinct 1 - 2, Kyle Police Department - 22, San Marcos Police Department - 33, Texas State Police Department - 1. No action taken.

Clerk's Note Agenda Item #74 RE: *DISCUSSION AND POSSIBLE ACTION RELATED TO PROPOSED BILLS IN THE 87TH SPECIAL SESSION OF THE TEXAS LEGISLATURE AND TO CONSIDER ADOPTION OF RESOLUTION(S) REGARDING PROPOSED BILLS. THE COURT MAY OPT TO WITHDRAW TO EXECUTIVE SESSION DURING THIS ITEM TO CONSULT WITH LEGAL COUNSEL PURSUANT TO TEXAS GOVERNMENT CODE 551.071.* **– WAS PULLED.**

Clerk's Note Agenda Item #75 RE: *DISCUSSION OF ISSUES RELATED TO THE HAYS COUNTY JAIL, AND THE PLANNING OF PROJECTS PERTAINING TO THE PUBLIC SAFETY FACILITIES NEEDS WITHIN THE COUNTY. POSSIBLE ACTION MAY FOLLOW.* **– WAS PULLED.**

DISCUSSION AND POSSIBLE ACTION REGARDING FUNDING RECEIVED OR TO BE RECEIVED BY HAYS COUNTY UNDER THE AMERICAN RESCUE PLAN ACT (ARPA).

Dan Lyon made a public comment concerning county spending. Judge Becerra clarified that the Department of Treasury governs how ARPA money is used, and the Auditor's office interprets those rules. No action taken.

ADJOURNMENT

A motion was made by Commissioner Jones, seconded by Judge Becerra to adjourn court at 03:05 p.m.

I, ELAINE H. CÁRDENAS, COUNTY CLERK and EXOFFICIO CLERK OF THE COMMISSIONERS' COURT, do hereby certify that the foregoing contains a true and accurate record of the proceedings had by the Hays County Commissioners' Court on December 21st, 2021.

COMMISSIONER'S COURT HAYS COUNTY, TEXAS

ELAINE H. CÁRDENAS, COUNTY CLERK AND EXOFFICIO CLERK OF THE COMMISSIONERS' COURT OF HAYS COUNTY, TEXAS

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Approve the payment of the January 31, 2022 payroll disbursements in an amount not to exceed $4,200,000.00 effective January 31, 2022 and post totals for wages, withholdings, deductions and benefits on the Hays County website once finalized.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
CONSENT	January 18, 2022	N/A

LINE ITEM NUMBER

N/A

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR REVIEW:** N/A

REQUESTED BY	SPONSOR	CO-SPONSOR
Britney Richey, Hays County Treasurer	BECERRA	N/A

SUMMARY

Approve the January end of month payroll disbursements not to exceed $4,200,000.00.

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Authorize the County Judge to use his Community Program Expense for the Dunbar Heritage Association in the amount of $500.00.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
CONSENT	January 18, 2022	$500

LINE ITEM NUMBER

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR REVIEW:** N/A

REQUESTED BY	SPONSOR	CO-SPONSOR
	BECERRA	N/A

SUMMARY

The Dunbar Heritage Association is a charitable organization designed to organize, promote and raise awareness for San Marcos' Martin Luther King Holiday Celebration, Black History Month & Juneteenth.

December 31, 2021

Ruben Becerra, County Judge
Hays County Courthouse
111 E. San Antonio St., Ste. 300
San Marcos, Texas 78666

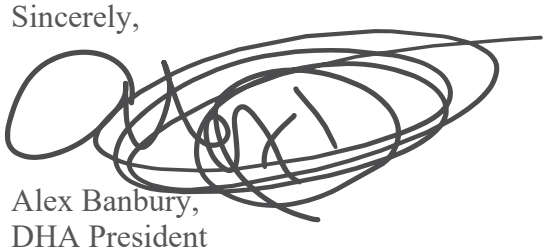
Dear Judge Becerra,

The Dunbar Heritage Association is a charitable organization designed to organize, promote, and raise awareness for San Marcos' Martin Luther King Holiday Celebration, Black History Month, & Juneteenth Events.

We respectfully request a contribution of $500.00 to support these invaluable community events.

Thank you in advance for your generous contribution. It is because of community-focused partnerships that we can continue our work of carrying on this unity-building traditions.

Sincerely,



Alex Banbury,
DHA President

PO Box 1848
San Marcos, TX 78667
dhasmtx@gmail.com
737-999-0403

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Authorize the County Judge to execute the annual renewal contract between Hays County and American Aerobic Management Systems (AAMS) in the amount of $2,985.00 for the annual maintenance and inspections of all Hays County septic systems.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
CONSENT	January 18, 2022	$2,985

LINE ITEM NUMBER

001-695-00.5448

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR REVIEW:** N/A

REQUESTED BY	SPONSOR	CO-SPONSOR
T. CRUMLEY	BECERRA	N/A

SUMMARY

Authorize Building Maintenance to renew their annual maintenance and repair contract with AAMS for the annual maintenance and inspections of all Hays County septic systems. Funding for this has been identified in the current Building Maintenance operating budget.

Attached: AAMS 2022-2023 Renewal Contract

AAMS Wastewater Service
PO Box 1514
Wimberley, TX 78676
(512) 847-0757

Annual Maintenance and Service Contract

January 5, 2022

Hays County
Septic Systems
Contract dates: 2/15/2022-2/15/2023

Pricing for yearly maintenance on the location(s) below are as follows:

Aerobic Systems – Prices include the inspections & annual BOD/TSS testing

Precinct 4 Offices	Inspected monthly per permitting authority (12 inspections per year… one water test)	$1,680.00
Does NOT include sand media manipulation or replacement.		
Precinct 3 Offices	Inspected every 4 months per permitting authority (3 inspections per year, one water test)	$ 325.00

Other Systems – Annual Inspections

Precinct 4 Yard	Conventional System	$ 140.00
Precinct 3 Yard	Low Pressure Dose System	$ 140.00
Transfer Station – Wimberley	Conventional System	$ 140.00
Transfer Station – Dripping Spr	Conventional System	$ 140.00
Yarrington Offices	Conventional System	$ 140.00
Jacob's Well Natural	Grinder Pump	$ 140.00
Precinct 5 Offices	Grinder Pump	$ 140.00
	Total Yearly Price	**$2,985.00**

The above cost is only for the maintenance inspections. Any repairs and pumping will be billed separately at time of service.

Pumping Cost

Precinct 4 Offices (2x per year, ea time)	$900.00	Precinct 4 Yard	$350.00
Precinct 3 Offices	$900.00	Precinct 3 Yard	$425.00
Transfer Station – Dripping Springs	$350.00	Transfer Station – Wimberley	$350.00
Yarrington Offices	$900.00	Grinder Pump Areas	$350.00

All of the pumping prices are based on systems at operating levels. Flooded systems and emergency pump outs will incur an additional charge of up to $300.00. The grinder pump areas are only in case the basin is flooded and repairs can not be made without pumping the basin to access the pump.

AAMS Wastewater Service
PO Box 1514
Wimberley, TX 78676
(512) 847-0757

Repair Cost

Service Call	$ 60.00	Hourly Labor Rate	$85.00
Emergency Weekend Calls	$120.00		

Effluent pumps, Grinder pumps, Aerators, Aerator Rebuilds, and Control Panels are a set price that include labor, materials, service call and markup. The only additional cost to these items would be if there is problem that is run into, then the additional would be charged at the hourly labor rate. The set price can be provided upon request.

Owner understands and agrees that this service contract does not cover the cost of repairs or parts for the system or service calls resulting from misuse or abuse of the system of any kind, including, but not limited to, electrical malfunctions, broken sprinklers, leaking pipes, blocked or clogged pipes, excessive use (outside of the design criteria for the system), disposal of non-biodegradable materials (solvents, grease, oil, paints, feminine hygiene products, cotton materials, plastics, paper towels, etc.). Overloading of the system above its rated capacity or introduction of harmful matter into the system will result in substandard performance and is the responsibility of the Owner. The owner grants AAMS unlimited access to the system for inspection and service. The owner agrees to update AAMS with changes of combination lock and/or automatic gate codes, to include contact information (phone numbers) to access property. The owner may incur additional charges if additional visits are necessary because of restricted access.

Owner understands and agrees that servicing the system pursuant to this contract does not include the repair or replacement of any component found to be defective or functioning incorrectly. These items are the sole responsibility of the Owner. If repairs are performed at the request of Owner, the Owner agrees to pay AAMS in full for such repairs at the time the service is rendered. If payment is not made in full at that time, the Owner "will be invoiced for repair cost to include parts and labor. The Owner agrees to pay the invoice within ten days. The Owner will be accessed a late f*ee of* 2.5% of the outstanding balance due every thirty days until the outstanding balance is paid in full. Owner authorizes AAMS to remove any part installed by AAMS that is not timely paid for by Owner." **Terms subject to Government Code, Ch 2251.**

Owner understands and acknowledges that there are inherent hazards of accidental injury, property damage or death in connection with the use of onsite septic systems. Owner assumes any and all risks associated with the ownership of an onsite septic system. Owner hereby releases and assumes entire responsibility and liability for any claim or actions based on or arising out of injuries to persons or damages to or destruction of property sustained or alleged to have been sustained in connection with or to have arisen out of or incidental to the performance of this contract by AAMS, its agents and employees. Owner agrees to indemnify, hold harmless, and defend, AAMS, its officers, agents, and employees, from any and all liability, damages, losses, claims, judgments, costs or expenses, including attorney's fees, which in any way arise from the operation of or the presence of the septic system on owner's property. The Owner and AAMS agree that this release, waiver, and indemnity agreement is intended to be as broad and inclusive as permitted by Texas law. If any portion of this agreement is found invalid, the balance of the agreement remains valid

_____ _____

AAMS / Steven T White 22900 Owner / Hays County

Date_____ Date_____

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Authorize the execution of Resolution and submission of a grant application to the Office of the Governor, Criminal Justice Division, General Victim Assistance Program for the Hays County Victim Assistance for the Family Justice Center in the amount of $49,860.97.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
CONSENT	January 18, 2022	$12,262.99

LINE ITEM NUMBER

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR REVIEW:** N/A

REQUESTED BY	SPONSOR	CO-SPONSOR
T. CRUMLEY	BECERRA	N/A

SUMMARY

This grant application is to provide funding for personnel to provide services and assistance directly to victims of crime to speed their recovery and aid them through the criminal justice process. Funding will be utilized for salary of a victim assistance coordinator in the district attorney office.

Total project costs $62,123.96
Match: $12,262.99

Project Date: October 1, 2022 - September 30, 2023.

Grant number 4028003.

Resolution

STATE OF TEXAS §
COUNTY OF HAYS §

WHEREAS, The Hays County Commissioners Court finds it in the best interest of the citizens of Hays County, that the Victim Assistance for the Family Justice Center Program be operated in the 2023 year; and

WHEREAS, The Hays County Commissioners Court agrees to provide applicable matching funds for the said project as required by the Office of the Governor, Criminal Justice Division, General Victim Assistance Program application; and

WHEREAS, The Hays County Commissioners Court agrees in the event of loss or misuse of the Office of the Governor funds, the Hays County Commissioner's Court assures that the funds will be returned to the Office of the Governor in full.

WHEREAS, The Hays County Commissioners Court designates Ruben Becerra, Hays County Judge as the grantee's authorized official. The authorized official is given the power to apply for, accept, reject, alter or terminate the grant on behalf of the applicant agency.

NOW THEREFORE, BE IT RESOLVED that the Hays County Commissioners Court approves the submission of the grant application for the Victim Assistance for the Family Justice Center Program to the Office of the Governor.

ADOPTED THIS THE 18th DAY of JANUARY 2022

_____
Ruben Becerra
Hays County Judge

Grant Number: 4028803

ATTEST:

_____
Elaine Cardenas, MBA, PhD
Hays County Clerk

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Approve specifications for RFQ 2022-Q01 Onion Creek Watershed Hydraulic Study and authorize Purchasing to solicit for bids and advertise.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
CONSENT	January 18, 2022	

LINE ITEM NUMBER

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR REVIEW:** N/A

REQUESTED BY	SPONSOR	CO-SPONSOR
Marcus Pacheco	SMITH	JONES

SUMMARY

Hays County, Texas is seeking to enter into a professional engineering services contract with a state registered engineer for the development of the Onion Creek Watershed Hydraulic Study.

Attached:
Solicitation: RFQ 2022-Q01 Onion Creek Watershed Hydraulic Study

SOLICITATION, OFFER AND AWARD

Hays County Auditor
Purchasing Office
712 S. Stagecoach Trail, Suite 1071
San Marcos, Texas 78666

Solicitation No.: RFQ 2022-Q01 Onion Creek Watershed Hydraulic Study	**Date Issued: January 20, 2022**

SOLICITATION

Vendors must submit proposals as listed: One (1) original and one (1) digital copy on a thumb drive at the Hays County Purchasing Office at the address shown above or Electronically through BidNet Direct and one (1) hard copy at the Hays County Purchasing Office at the address shown above until:

3:00 p.m. local time February 10, 2022.

Proposals received after the time and date set for submission will be returned unopened.

For information please email: purchasing@co.hays.tx.us	Questions concerning this IFB must be received in writing no later than 5:00 on February 2, 2022.	Phone No.: (512) 393-2283

OFFER (Must be fully completed by Respondent)

In compliance with the above, the undersigned offers and agrees to furnish all items or services awarded at the prices stipulated for each item delivered at the designated point(s) and within the time specified herein. Award shall include all solicitation documents and attachments.

MANUALLY SIGN ALL COPIES SUBMITTED. SIGNATURE IS MANDATORY.

Respondent		Respondent's Authorized Representative	
Entity Name: Mailing Address:		Name: Title: Email Address: Phone No.:	
Signature:		Date:	
Name, Email Address and Phone No. of person authorized to conduct negotiations on behalf of Respondent:			

NOTICE OF AWARD (To be completed by County)

Funding Source:	Awarded as to item(s):	Contract Amount:
Vendor:		Term of Contract:
This contract issued pursuant to award made by Commissioners Court on:	Date:	Agenda Item:

Important: Award notice may be made on this form or by other Authorized official written notice.	_____ Hays County Judge	_____ Date
	_____ Hays County Clerk	_____ Date

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I. RFQ Submittal Checklist

This checklist is provided for the Vendor's convenience and identifies documents that MUST be submitted for the bid/proposal/SOQ to be considered responsive, as well as the required forms requested by Hays County.

A COMPLETE SOLICITATION RESPONSE PACKAGE INCLUDES:

The following forms MUST be returned for the bid/proposal/SOQ to be considered responsive:

____ 1. Solicitation, Offer and Award Form completed and signed, and Proposal

____ 2. Vendor Reference Form

Required Forms by Hays County:

____ 1. Conflict of Interest Questionnaire completed and signed

____ 2. Code of Ethics signed

____ 3. HUB Practices signed

____ 4. House Bill 89 Verification signed and notarized

____ 5. Senate Bill 252 Certification

____ 6. Debarment & Licensing Certification signed and notarized

____ 7. Vendor/Bidder's Affirmation completed and signed

____ 8. Related Party Disclosure Form

____ 9. Appendix II – 2 CFR Part 200

____ 10. FHWA 1273 Certification

____ 11. System for Award Management (www.SAM.gov) Entity Registration Page

____ 12. Any addenda applicable to this solicitation

Hays County will accept bids/proposals/SOQ, by the stated due date by one of the following methods:

____ 1. Electronic Submission of Bid Packet through BidNet Direct and one (1) hard copy or

____ 2. One original of the statement of qualifications and a digital copy on a thumb drive are in a sealed envelope with the Solicitation Number and Vendor's Name on the outermost envelope, addressed to:
Hays County Purchasing
712 S Stagecoach Trail, Suite 1071
San Marcos, TX 78666

II. Summary

1. Type of Solicitation:	Request for Qualifications
2. Solicitation Number:	RFQ 2022-Q01 Hydraulic Study Onion Creek
3. Issuing Office:	Hays County Auditor Purchasing Office 712 S. Stagecoach Trial, Suite 1071 San Marcos, TX 78666
4. Responses to Solicitation:	Sealed proposals marked with Solicitation Number and Vendor Name on the outermost envelope One (1) Original and one (1) digital copy on a thumb drive, or Electronic Bid packets can be submitted through BidNet Direct and one (1) hard copy is required to be received.
5. Deadline for Responses:	In issuing office no later than: **February 10, 2022; 3:00 p.m. Central Time (CT)**
6. Initial Contract Term:	March 2022 – June 2024
7. Optional Contract Terms:	Renewals as needed until successful project completion
8. Designated Contact:	Hays County Purchasing Email: purchasing@co.hays.tx.us
9. Questions & Answers:	**Questions regarding this solicitation must be made in writing and submitted to the designated contact above no later than February 2, 2022; 5:00 p.m. CT. Telephone inquiries will not be accepted.** Questions may be submitted by email to the address above. Answers to questions will be provided in the form of an addendum posted after the question deadline on the CivicPlus, BidNet Direct, and ESBD websites for the benefit of all potential respondents. The County reserves the right to contact the person submitting a question to clarify the question received, if necessary. Each clarification, supplement, or addenda to this IFB, if any, will be posted on the CivicPlus, BidNet Direct and ESBD websites. All potential or actual respondents are responsible for monitoring the websites for such materials. Respondents are deemed to have notice of, and are required to comply with, any such material posted in accordance with this paragraph. Respondents should not rely upon any other sources of written or oral responses to inquiries.
10. Addenda	Any interpretations, corrections or changes to this IFB and specifications will be made by addenda. Sole issuing authority of addenda shall be vested in the Hays County Purchasing Office. It is the Respondent's responsibility to acknowledge receipt of all addenda with proposal submission.

11. Contact with County Staff: Upon issuance of this solicitation, employees and representatives of Hays County, other than the Purchasing Office staff identified as the Designated Contact above, will not discuss the contents of this solicitation with any Respondent or its representatives. Failure of a Respondent or any of its representatives to observe this restriction may result in disqualification of any related offer. This restriction does not preclude discussions between affected parties for the purpose of conducting business unrelated to this procurement.

Anticipated Schedule of Events

January 20, 2022	Issuance of RFQ
February 2, 2022	Deadline for Submission of Questions (5:00 PM CT)
February 10, 2022	Deadline for Submission of Proposals (3:00 PM CT) **Late bids will not be accepted.**
March 2022	Anticipated contract award date

III. Specifications

A. Introduction

Hays County, Texas is seeking to enter into a professional engineering services contract with a state registered engineer for the development of the Onion Creek Watershed Hydraulic Study. The main purpose of this study is to develop digital, geo-referenced hydraulic models and floodplain maps for the Onion Creek Watershed for both existing and fully developed land-use conditions as well as Atlas 14 flows produced by the City of Austin hydrologic models.

The Onion Creek Watershed Hydraulic Study is part of the Hays County comprehensive efforts to update floodplain modeling and mapping in consideration of the new National Oceanic Atmospheric Administration (NOAA) Atlas 14 rainfall data. The scope of study for the Hays County Onion Creek hydraulics will include roughly 71 miles of detailed analysis (Zone AE floodplains) and 193 miles of limited detail or approximate analysis (Zone A floodplains). The proposed study will update all of these models and develop the associated FEMA mapping with Atlas 14 flows produced by the City of Austin Hydrology study.

The objectives of this study are:

1. To develop new or updated geo-referenced hydraulic (HEC-RAS) models of the Onion Creek Watershed for both existing and fully developed land-use conditions for selected storm frequencies based on NOAA Atlas 14 rainfall data.
2. To map the 100-yr and 500-yr floodplains for existing land use conditions and the 25-yr and 100-yr floodplains for fully developed land-use conditions.
3. To develop selected flood risk products to support the evaluation and communication of flood risk.
4. To produce a hydraulic, mapping, and flood risk data that is necessary for FEMA to conduct a Physical Map Revision.
5. To help county and cities to determine ideal areas and sites for flood mitigation.

The final products of this study will consist of new or updated hydraulic models, updated floodplain spatial data, selected flood risk data products, and preparation of all data necessary for FEMA to conduct a Physical Map Revision (PMR). The below background and scope of work provides Hays County Guidelines and Specifications for Hydraulic Modeling for Onion Creek Watershed Floodplain Analysis and Delineation details of the methodologies to be followed for the various study tasks. The ENGINEER's study, resulting from this solicitation, shall be referred to as the "Onion Creek Watershed Floodplain Modeling and Mapping Project".

B. Background

The Onion Creek watershed encompasses approximately 344 square miles. Onion Creek generally flows easterly, from the headwaters in Blanco County, through Hays County, to the confluence with the Colorado River in Travis County. This study will consider hydraulics for the portion of Onion Creek that reside in Hays County and the portion within Blanco County. The study watershed is shown in **Exhibit 1**. Hydraulic modeling and floodplain mapping will be performed for approximately 130 stream miles under this scope of work. All studied streams will be modeled and mapped as FEMA detailed study AE zones or limited detailed study A zones; however, field measurements will be obtained instead of field survey for selected streams.

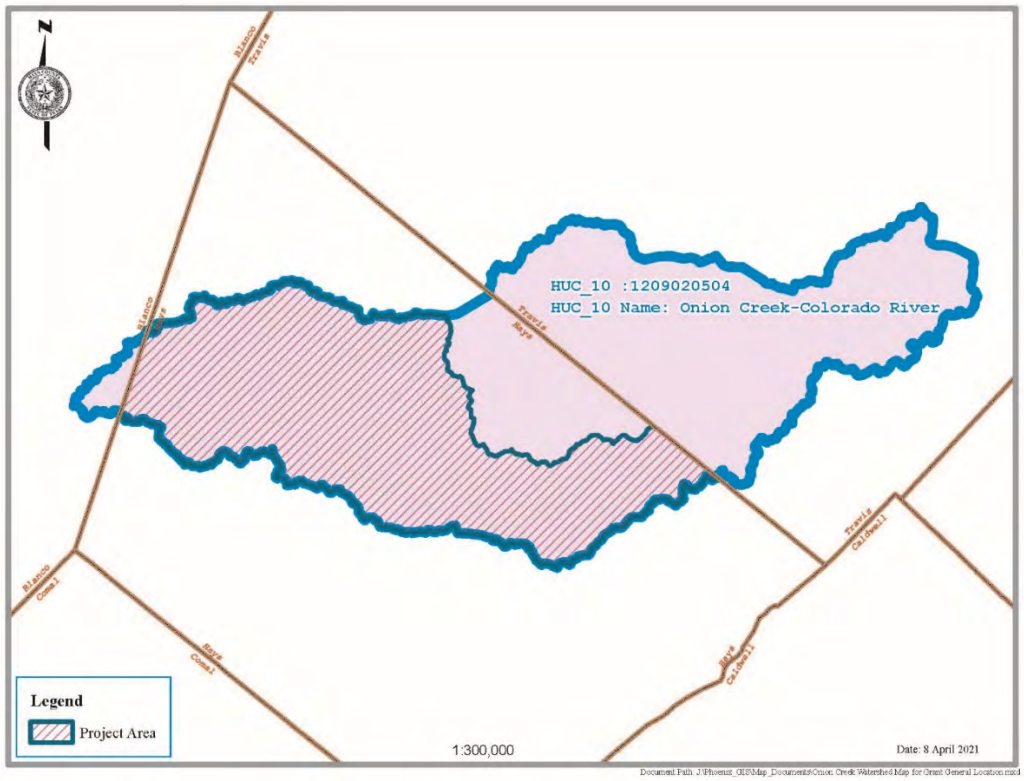

Exhibit 1: Watershed Study Area

The current effective floodplain mapping for selected streams in the watershed was completed in 2017 and utilized HEC-HMS and HEC-RAS computer models for the analysis. The completion of NOAA Atlas 14, Volume 11 for Texas and the resultant significant change in design rainfall for the area has prompted the need for this new study.

The hydraulic modeling and floodplain mapping will include the streams identified in Table 1. All existing floodplains must be restudied and remapped by detailed methods. The current effective Zone A study reaches indicated for new or restudy shall be delineated as AE Zones based on a HEC-RAS model that includes field measurements in place of field survey. An updated list with the estimated stream miles to be studied and the approximate number of surveys will be supplemented to the contractor after award.

Table 1: Onion Creek Watershed Hydraulic Model Development Summary

Stream Name	Stream Length (Miles)	
	Detailed	Approximate
Onion Creek Tributaries		
Garlic Creek Headwaters		
Spring Hollow		
Spring Hollow Tributary 1		
Spring Hollow Tributary 2		
Spring Hollow Tributary 3		
Little Bear Creek		
Little Bear Creek Tributary 2		
Little Bear Creek Tributary 2_1		
Little Bear Creek Tributary 2A		
Little Bear Creek Tributary 2B		
Little Bear Creek Tributary 3		

Little Bear Creek Tributary 4		
Little Bear Creek Tributary 5		
Little Bear Creek Tributary 6		
Little Bear Creek Tributary 7		
Little Bear Creek Tributary 1		
Little Bear Creek Tributary 1_1		
Little Bear Creek Tributary 1_2		
Jackson Branch		
Jackson Branch Tributary		
Pier Branch		
Rocky Branch		
Onion Creek Tributary 16		
Onion Creek Tributary 16_1		
Flat Creek		
Yorks Creek		
Yorks Creek Tributary 1		
Yorks Creek Tributary 2		
Yorks Creek Tributary 3		
Mustang Branch		
Mustang Branch Tributary 1		
Mustang Branch Tributary 2		
Mustang Branch Tributary 2_1		
Mustang Branch Tributary 3		
Mustang Branch Tributary 4		
Mustang Branch Tributary 5		
Mustang Branch Tributary 6		
Mustang Branch Tributary 7		

C. Scope of Work

Hays County is seeking to contract with a competent engineering firm which is registered to practice in the State of Texas that has experience in the following areas:

- Floodplain Modeling and Mapping Experience
- Experience with Texas Water Development Board Guidelines
- Project Management Experience
- Community and Stakeholder Outreach Experience
- Technical Writing and Policy Creation Experience

The project services of this solicitation are generally based on the standard FEMA Mapping Activity Statement (MAS) task items for the Onion Creek Watershed and the awarded engineer shall perform the project services in accordance with the following standards:

1. FEMA's Standards for Flood Risk Products (along with relevant sections of the older Guidelines and Specifications for Flood Hazard Mapping Partners and any relevant procedure memoranda).
2. Hays County Drainage Criteria Manual (DCM) with Atlas 14 criteria incorporated.
3. User Manuals and Engineering Reference Manuals associated with the hydrologic and hydraulic modeling software used for the study.
4. Additional requirements and technical guidelines described in this study scope.

The engineering services will consist of project management, community engagement, field survey and data collection, terrain review/refinement, preliminary and final hydraulic model development, floodplain mapping, conducting QA/QC, production of flood risk products. The ENGINEER shall be responsible for selected MAS 6 activities that relate to items 1, 2, 3, 4, 5, 6, 7.

The activities in the Onion Creek Watershed will include the following:

1. Perform General Project Management
2. Data Collection for Hydrology
3. Hydraulic Data Analysis
4. Flood Mitigation Analysis
5. Independent QA/QC
6. Perform Flood Mitigation Analysis
7. Develop Flood Risk Products

Task 1: Project Management

Project Management activities shall include task leadership and direction, project update meetings and status reports, telephone and written communication, project schedule development and updates, personnel and data management, and other general project management activities. The coordination and scheduling of community meetings with Hays County and other participating stakeholders will be required. Preparation of materials, documentation of outreach, and additional information regarding impacted communities and property owners will be required. Summaries of action items relating to the floodplain study that arise from Community Engagement meetings are to be documented and provided to Hays County.

Task 2: Data Collection for Hydrology

Data collection task includes terrain development, historical information collection, and obtaining other general data pertaining to Hydrologic Modeling. Coordination with other jurisdictions will be necessary. The City of Austin Atlas 14 Hydrologic Model for Onion Creek is imperative for establishing flows for use in the Hydraulic Analysis for the portion of the watershed in Hays County. Utilization of this model and other data is necessary for this analysis. Participation in meetings and establishing a planning process with others to achieve this task will be necessary.

Task 3: Hydraulic Data Analysis

The analysis of the Hydraulic data will include updates of prior studies and associated floodplain mapping to reflect current conditions in Hays County for approximately 71 miles of detailed study streams and 193 miles of limited detailed or approximate study streams. Using the latest version of HEC-RAS modeling software, Hydraulic analysis must include evaluation of the existing land use condition 2-, 10-, 25-, 50-, 100-, and 500-year frequency events. All Hydraulic analysis will need to include one-dimensional (1D), steady-state modeling. Hydraulic analysis and mapping shall include the following:

- Milestone reviews to be listed in the contracted Scope of Work. This includes Cross Section Review, Parameter and Routing Model Review, Calibration Review, and Draft TSDN Review.
- One Digital copy of the draft Hydraulics and Mapping TSDN for existing and fully developed land-use conditions including geo-referenced hydraulic models, surveyed data, water surface profile plots, floodplain work maps, and other supporting data such as base flood elevation, cross-section GIS data, etc. for County comment and Review.
- One hard copy and two digital copies of the final Hydraulic and Mapping TSDN or the existing and fully developed land-use conditions in accordance with FEMA's Data Capture Standards identified in MAS 6.
- Responses to Hays County review comments. One (1) County review of each milestone submittal

The generation of floodplain mapping, water surface elevation and depth grids for the existing condition 100-year and 500-year frequency events along detailed study reaches. In addition, the generation of floodplain mapping, water surface elevation and depth grids for the existing condition 100-year frequency event along limited detail study reached.

Task 4 Floodplain Mitigation Analysis

An assessment of current and previous mitigation strategies using Atlas 14 results will be required. The re-evaluation of previous mitigation strategies including structural alternatives (detention ponds, channel improvements, and crossing improvements) and non-structural alternatives (rules/regulations, property buyouts, and structure elevations) to reduce flood risks. Flood mitigation alternatives must be evaluated and whereas applicable, evaluations of these flood risk reduction solutions should adhere to the "Technical Guidelines for Regional Flood Planning," Exhibit C to Regional Flood Planning Grant Contracts by the Texas Water Development Board.

Each feasible flood mitigation alternatives evaluated must identify and compare cost and benefits of projects. Quantification of cost will include engineering, permitting, easement and/or property acquisition, capital cost, operation and maintenance, and other costs as applicable. Quantification of benefit of the project will include the following items, as applicable:

1. Number of structures with reduced 100-year (1% annual chance) flood risk.
2. Number of structures removed from 100-year (1% annual chance) flood risk.
3. Number of structures removed from 500-year (0.2% annual chance) flood risk.
4. Residential structures removed from 100-year (1% annual chance) flood risk.
5. Estimated Population removed from 100-year (1% annual chance) flood risk.
6. Critical facilities removed from 100-year (1% annual chance) flood risk (#).
7. Number of low water crossings removed from 100-year (1% annual chance) flood risk (#).
8. Estimated reduction in road closure occurrences.
9. Estimated length of roads removed from 100-year flood risk (miles).
10. Estimated farm & ranch land removed from 100-year flood risk (acres). Estimated farm & ranch land at 100-year flood risk (acres) should only include farm and ranch land that are negatively impacted by flooding events and should not include land that benefits from floodplains for example rice fields.
11. Estimated reduction in fatalities (if available).
12. Estimated reduction in injuries (if available).
13. Pre-Project Level-of-Service
14. Post-Project Level-of-Service
15. Cost/ Structure removed
16. Percent Nature-based Solution (by cost)
17. Negative Impact (Y/N)
18. Negative Impact Mitigation (Y/N)
19. Social Vulnerability Index (SVI)
20. Water Supply Benefit (Y/N)
21. Traffic Count for Low Water Crossings

The recommended solutions must be permittable, constructible, and implementable.

The recommended flood risk reduction solutions must have no negative effect on neighboring areas in accordance with statutory requirements for regional flood plans (Texas Water Code § 16.062(i) and (j)(2)). Recommended flood risk reduction solutions, including flood mitigation projects, must meet the definition and requirements regarding no negative effect identified in Exhibit C to the Regional Flood Planning Contracts, Technical Guidelines for Regional Flood Planning by the Texas Water Development Board.

Task 5 Independent Quality Assurance/Quality Control

Includes the development of a QA/QC program and procedure that meets or exceeds the requirements of FEMA. The program shall include a multi-level approach to ensure that all project goals are met, critical/technical issues are addressed, and high-quality products are delivered in a timely fashion. These efforts shall adhere to FEMA requirements for Independent Quality Assurance/Quality Control review as mandated in MAS tasks 6-11. Items such as quality control checklists shall be created for the various

tasks in this project with milestone reviews of the events and describing the items needing further review and comments by the project team. All project materials shall be presented to Hays County with certification of a through QA/QC review.

Task 6 Documentation and Deliverables
Includes preparation of a Flood Protection Planning report that provides a thorough explanation of all procedures, assumptions, special considerations, comparisons, checkpoints, independent QA/QC, and planning results. Consultation and coordination with Hays County throughout preparation of the report shall be required to discuss possible refinement of objectives, current and final methodologies, and any other items requiring further review.

The anticipated project schedule is as follows:

Task	Responsible Party	Start Date	End Date
Award Contract	Hays County	March 2022	March 2022
Task 1: Project Management	Engineer	March 2022	June 2024
Task 2: Data Collection	Engineer	March 2022	November 2022
Task 3: Hydraulic Data Analysis	Engineer	March 2022	May 2023
Task 4: Conceptual Flood Mitigation Analysis	Engineer	May 2023	June 2024
Task 5: Quality Assurance/Quality Control	Engineer	March 2022	June 2024
Task 6: Documentation and Deliverables	Engineer	March 2022	June 2024

D. Qualifications

The awarded Engineer should specialize in Floodplain Modeling and Mapping. To be eligible to respond to this RFQ, the proposing firm must demonstrate that it, or the principals assigned to the project, have successfully completed services similar to those specified in the Scope of Work section of this RFQ to institutions similar in size and complexity to Hays County.

REFERENCES: Hays County requires respondent to supply with the statement of qualifications, a list of at least three (3) references where like services have been supplied by their company. Include name of company, address, telephone number and name of representative.

RESPONSIBILTY: A prospective respondent must affirmatively demonstrate respondent's responsibility. A prospective respondent must meet the following requirements:

- Have adequate financial resources, or the above ability to obtain such resources as required
- Have a satisfactory record of performance
- Be otherwise qualified and eligible to receive an award

SYSTEM FOR AWARD MANAGEMENT: Respondent and its Principals may not be debarred or suspended nor otherwise on the Excluded Parties List System (EPLS) in the System for Award Management (SAM). Include verification that the company as well as the company's principals are not listed (are not debarred) through the System for Award Management (www.SAM.gov). Enclose a printout of the search results that includes the record February 4, 2022.

TIME OF PERFORMANCE: It is imperative that the prospective respondent respond to County requests in a timely manner and comply with required or proposed delivery schedules. Please describe how you intend to respond to and track County requests.

E. Proposal Requirements

All statement of qualifications (SOQ) shall demonstrate the vendor(s) experience in performing a project of this scale and complexity. For the County representatives to accurately evaluate whether or not the respondent meets "Minimum Qualifications for All Respondent" and the “Specifications” SOQs shall Include:

- **Letter of Transmittal** signed by the individual authorized to negotiate for and contractually bind the company.
- **Table of Contents**
- Brief general statement of qualifications that responds to the project introduction and scope of work provided above
- List of at least the last three (3) projects the firm has completed similar to the project described in this solicitation, including the name of the project, client contact, owner’s total initial budget, total project cost, date of bid, scheduled completion date and actual completion date
- The team’s organizational structure, their understanding of the project issues and their approach to the project including technical and management factors that will lead to a quality design and operation shall be included. Respondents are encouraged to use this section of the submittal to address optional improvements to the scope of services requirements outlined in the RFQ. Competitive advantages or special capabilities of project teams should be highlighted in this section as well as the intended methods to ensure:
    a. Project design performance and product reliability
    b. Cost effectiveness
    c. Ability to meet budgets and schedules
    d. Effective project management
    e. Quality control
- Contact information for at least three references
- Provide name of firm, complete address, contact person, telephone number, fax number, and email address
- Resumes of personnel who will be involved (appendix materials)

Sheet size is limited to 8½” x 11” sheets only, using 12-point font. The proposal must include an organizational chart containing the names, telephone numbers, and e-mail addresses for the prime provider and any sub-providers if proposed for the team and their contract responsibilities by work category. The organizational chart is permissible to use an 11” x “17” sheet (one-sided) and a font smaller than 12-point for the organizational chart, provided text is clearly legible. It is permissible to use a font smaller than 12-point for graphics, provided text is clearly legible.

The SOQ must be submitted with a continuous binding (e.g. – spiral, GBC, etc.) along the left edge; no other binding will be accepted.

F. Submittal Requirements

Vendor must deliver their statement of Qualifications (SOQ) to the Hays County Purchasing Department by one of the following methods by the specified deadline:

Mailed or Dropped off Statement of Qualifications:

- One (1) original SOQ with required forms manually signed by the Vendor with original signatures
- One (1) digital copy of the full SOQ with all required forms on a thumb drive

Electronic Statement of Qualifications:

- Upload SOQ with required forms manually signed by the Vendor. (through BidNet Direct)
- One (1) original SOQ with required forms manually signed by the Vendor, delivered to the Hays County Purchasing Office. Either the original or Electronic SOQ (through BidNet Direct) MUST be received by the due date and time to be considered responsive.

LATE SUBMITTALS WILL NOT BE ACCEPTED.

ALTERING STATEMENT OF QUALIFICATIONS: Any interlineations, alteration, or erasure made before receiving time must be initialed by the signer of the SOQ, guaranteeing authenticity.

WITHDRAWING OF STATEMENT OF QUALIFICATIONS: A SOQ may be withdrawn at any time prior to the official opening. After the official opening, SOQ may not be amended, altered or withdrawn without the recommendation of the County Purchasing Manager and the approval of Commissioners Court.

It is understood that Hays County reserves the right to accept or reject any and all submittals as it shall deem to be in the best interest of Hays County.

FORMS: All SOQs must be submitted on the forms provided in this solicitation document. Changes to solicitation forms made by bidders shall disqualify the proposal.

REFERENCES: Hays County requires respondent to supply a list of at least three (3) references (See Section IV for Vendor Reference Form) where like services have been supplied by their company. Include name of company, address, telephone number and name of representative.

G. Evaluation Criteria

Statement of Qualifications (SOQ) will be evaluated by Hays County staff. SOQs will be ranked according to the criteria outlined below.

Criteria	***Points***
Experience	60
Work Performance	25
Capacity to Perform	15
Total Maximum Points	**100**

Interview (optional) **20 points Max.**

At the County's discretion, submitting entities may be requested by the Evaluating Committee to conduct interviews as part of the evaluation process, prior to making recommendations to Commissioners Court regarding award work.

It is the practice of Hays County to encourage local participation and to promote and encourage contracting and subcontracting opportunities for locally owned businesses and labor in all contracts.

The County of Hays does not discriminate on the basis of race, color, national origin, sex, religion, age and disability in employment or the provision of services. Hays County is an Affirmative Action/Equal Opportunity Employer and strives to attain goals for Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u), as amended. Section 3 Residents and Business Concerns, Minority Business Enterprises, Small Business Enterprises and Women Business Enterprises are encouraged to submit proposals.

H. Award of Contract

Upon review by the Evaluating Committee, recommendation will be made to the Hays County Commissioners Court to negotiate a contract with the highest scoring respondent.

RIGHT TO ACCEPT OR REJECT: The County reserves the right to accept or reject any or all submissions as a result of this RFQ, to negotiate with all qualified sources, or to cancel in part or its entirety if found to be in the best interest of the County. The RFQ does not commit the County to award a contract, issue a purchase order, or pay any costs incurred in the preparation of a submission in response to this RFQ. SOQs may be held for one hundred twenty (120) calendar days after opening without taking action.

COMMISSIONERS COURT APPROVAL REQUIRED: The Hays County Commissioners Court must approve the contractors selected to provide the services requested in this RFQ. The County reserves the right to authorize contract negotiations to begin without further discussion with contractors submitting a response. Therefore, each SOQ should be submitted as completely and accurately as possible. The County reserves the right to request additional data, oral discussions, or presentations in support of the written SOQ.

Contractor or Individual's Obligation Regarding Evaluation

a. SUBMISSION OF INFORMATION. Submitters are cautioned that it is each contractor and or individual's sole responsibility to submit information related to the evaluation categories, and the County is under no obligation to solicit such information if it is not included with the SOQ. Failure of a contractor or individual to submit such information may cause an adverse impact on the evaluation of the specific SOQ.
b. SUBMITTER REVIEW OF RFQ. Submitters are responsible for examining and being familiar with all specifications, terms, conditions, provisions, and instructions of the RFQ and their responses. Failure to do so will be at the contractor and/or individual's risk and will not be a determinative factor when awarding the contract for services.

ORAL NON-BINDING: Any non-written representations, explanations, or instructions given by County staff or County agents are not binding and do not form a part of, or alter in any way, the RFQ, a written agreement pertinent to the RFQ, or the awarding of the contract.

RESERVATIONS BY COUNTY: The Commissioners Court has the right to accept, reject, or cancel any and all submissions. In addition, the County expressly reserves the following:

a. waive any defect, irregularity, or informality in any submission or RFQ procedure.
b. extend the RFQ closing time and date.
c. reissue this RFQ in a different form or context.
d. procure any item by other allowable means.
e. revise and modify, at any time before the RFQ submittal due date, the factors and/or weights of factors the County will consider in evaluating RFQ submittals and to otherwise revise or expand its evaluation methodology as set forth herein.
f. investigate the qualifications of any contractor under consideration and require confirmation of information furnished by a contractor.
g. require additional information from a contractor concerning contents of its RFQ submittal and/or require additional evidence of qualifications.
h. waive minor deviations from specifications, conditions, terms, or provisions of the RFQ, if it is determined that waiver of the minor deviations improves or enhances the County's business interests under the RFQ.
i. extend any contract when most advantageous to the County, as set forth in this RFQ.
j. appoint an evaluation committee to review RFQ submittals or responses, make recommendations and seek the assistance of outside technical experts in RFQ submittal evaluation.

k. hold interviews and conduct discussions and correspondence with one or more of the contractors responding to this RFQ to seek an improved understanding and evaluation of the responses to this RFQ.
l. disclose information contained in an RFQ submittal to the public as required under the Texas Public Information Act; AND/OR
m. exercise any other right reserved or afforded to Hays County under this RFQ. The County reserves the right to modify the process, in its sole discretion, to address applicable law and/or the best interest of the County.

The County shall not, under any circumstances, be bound by or be liable for any obligations with respect to any construction project until such time (if at all) a contract has been awarded and all approvals obtained in form and substance satisfactory to the County have been executed and authorized by the County, and then only to the extent of such agreements.

I. Elements of a Contract

1. RFQ. This Request for Qualifications is an invitation for individuals and companies to submit Statements of Qualifications (SOQs).

2. SOQ IS AN INDICATION OF ABILITY TO PERFORM REQUESTED SERVICES. The SOQ submitted by a contractor or individual is an indication of the ability of the contractor or individual to perform the requested services.

3. AWARD IS ACCEPTANCE. The selection of a contractor or individual and award of a contract by the Hays County Commissioners Court based upon a negotiated price is acceptance on the part of the County, thereby resulting in a binding contract between the County and the selected contractor.

4. CONSIDERATION. Consideration consists of the services to be performed under the contract awarded in exchange for compensation, based upon a final negotiated project price, to be paid by the County to the selected firm or individual.

5. AGREEMENT; EXCEPTIONS.
    a. Submission of an SOQ is a representation by a submitter that the submitting contractor or individual agrees to the terms, conditions, and other provisions contained in the RFQ, unless the submitter clearly and specifically presents in its SOQ any exceptions to the terms, conditions, and other provisions contained in the RFQ.
    b. Exceptions presented in an SOQ are not to be considered incorporated into the contract between the County and the selected contractor or individual unless and until the County agrees to accept such exceptions.
    c. The selected contractor must acknowledge and agree that the negotiated contract resulting from this RFQ includes the terms, conditions, and other provisions contained in the RFQ, the SOQ selected (including any exceptions accepted by the County) which is acceptable to the County and is not in conflict or contravention of the RFQ, and any other documents mutually agreed upon by the County and the selected contractor or individual.
    d. No oral statement of any person shall modify or otherwise change or affect the terms, conditions, or specifications stated in the RFQ or the resulting negotiated contract.

6. CONFIDENTIALITY OF DOCUMENTS.
    a. ALL STATEMENTS OF QUALIFICATION SUBMITTED WILL BE SUBJECT TO THE TEXAS PUBLIC INFORMATION ACT.
    b. On each page where confidential information appears, the Contractor or Individual must label the confidential information. Failure to so label the confidential information shall be considered as a waiver of any confidentiality rights or interests by said Contractor or Individual.

c. Marking your entire SOQ CONFIDENTIAL/PROPRIETARY is not in conformance with the Texas Open Records Act.

7. MISCELLANEOUS.
    a. All costs directly or indirectly related to the preparation of a response to this SOQ shall be the sole responsibility of and shall be borne by the contractor.
    b. During the evaluation process, the County reserves the right, where it may serve the County's best interest, to request additional information or clarifications from contractor or individuals, or to allow corrections of errors or omissions.
    c. The County reserves the right to retain all qualifications submitted and to use non-confidential information in a SOQ regardless of whether or not that SOQ is selected.
    d. Each SOQ shall state that it is valid for a period of one hundred twenty (120) days from the date of opening of the SOQ by the County.

8. NON-NEGOTIABLE TERMS. The following terms or conditions are not negotiable:
    a. Unfunded Liability. The County will not incur a debt or obligation to pay selected contractor or individual any amounts the County does not have the current funds available to pay, unless the contract includes a provision for the County to appropriate funding for the debt or obligation.
    b. Indemnification. The County does not assume any liability to third persons, nor will the County reimburse the contractor for its liability to a third person, with respect to loss due to death, bodily injury, or damage to property resulting in any way from the performance of this contract or any subcontract hereunder, and the contractor further agrees to provide the defense for, and indemnify and hold harmless County from any and all claims, suits, causes of action, and liability, arising in connection with this contract.
    c. Advance Payments. The County will not make advance payments to a selected contractor or individual or any third party pursuant to this RFQ or resulting contract.
    d. Gift of Public Property. The County will not agree to any terms or conditions that cause the County to lend its credit or grant public money or anything of value to the selected contractor or individual.
    e. Procurement Laws. The County will not agree to any terms or conditions that cause the County to violate any federal, Texas, or local procurement laws.
    f. Limitation of Liability. The County will not agree to allow the selected contractor or individual to limit its liability for breach or default of contract to the contract amount or to the amount the County has paid up to the time of the breach or default.
    g. Attorney's fees; Legal Costs. The County will not agree to pay the selected contractor or individual's attorney's fees or other legal costs under any circumstances.
    h. Venue; Applicable Law. This RFQ and any resulting contract will be governed and construed according to the laws of the State of Texas. The terms and conditions of the contract awarded pursuant to the RFQ are fully performable in Hays County, Texas and venue for any dispute regarding contract shall be in Hays County, Texas.

J. Warranty of Performance

The successful respondent expressly warrants that all services specified in the RFQ will be performed with care and diligence and in accordance with all specifications of the RFQ. The successful respondent agrees to correct any deficiencies in performance of services upon notification by the County and without additional expense to the County.

CONTINUING NON-PERFORMANCE of the respondent, in terms of specifications, shall be basis for the termination of the contract by the property owner. The property owner shall not pay for services that are unsatisfactory.

COMPLIANCE WITH LAWS: The successful Respondents shall comply with all applicable federal, state and local laws and regulations pertaining to the practice of the profession and the execution of the

duties under the proposal. Any contract executed as a result of this RFQ shall be governed by the laws of the State of Texas.

IV. General Terms and Conditions for Solicitations Applicable To: Request for Qualifications (RFQ)

1. GENERAL DEFINITIONS:
    a. "Auditor" means the Hays County Auditor or his/her designee.
    b. "Commissioners Court" means Hays County Commissioners Court.
    c. “Contract” means the contract awarded pursuant to the RFQ and negotiated cost proposal.
    d. “Contractor” means a person or firm receiving an award of contract from Commissioners Court.
    e. "County" means Hays County, Texas, a political subdivision of the State of Texas.
    f. "County Building" means any County owned buildings and does not include buildings leased by County.
    g. "Is doing business" and "has done business" mean:
        i. Paying or receiving in any calendar year any money or other valuable thing which is worth more than $250 in the aggregate in exchange for personal services or for purchase of any property or property interest, either real or personal, either legal or equitable; or
        ii. Loaning or receiving a loan of money; or goods or otherwise creating or having in existence any legal obligation or debt with a value of more than $250 in the aggregate in a calendar year;
        iii. But does not include any retail transaction for goods or services sold to a Key Contracting Person at a posted, published, or marked price available to the general public.
    h. "Key Contracting Person" means any person or business listed in Exhibit A to Affidavit.
    i. "Purchasing Manager" means the Hays County Purchasing Manager.
    j. “Sub-contractor” means a person or firm doing business with a Contractor.

2. FUNDING: Hays County is the Contracting Local Organization (CLO) responsible for soliciting and awarding a local contract for this project. The contract is receiving State funding from the Texas Water Development Board, where Hays County had to match funding. State of Texas statutes prohibit the obligations and expenditure of public funds beyond the fiscal year for which a budget has been approved. However, the cost of items or services covered by this Contract is considered a recurring requirement and is included as a standard and routine expense of Hays County to be included in each proposed budget within the foreseeable future. County Commissioners expect this to be an integral part of future budgets to be approved during the period of this Contract except for unanticipated needs or events which may prevent such payments against this Contract. However, County cannot guarantee the availability of funds, and enters into this Contract only to the extent such funds are made available. The Fiscal Year for County extends from October 1st of each calendar year to September 30th of the next calendar year.

3. FUNDING OUT: Despite anything to the contrary in this Contract, if, during budget planning and adoption, Commissioners Court fails to provide funding for this Contract for the following fiscal year of County, County may terminate this Contract after giving Contractor thirty (30) calendar days written notice that this Contract is terminated due to the failure to fund it.

4. INVOICING/PAYMENTS:
    a. Contractor shall provide County with an Internal Revenue Form W-9, Request for Taxpayer Identification Number and Certification, that is completed in compliance with the Internal Revenue Code and its rules and regulations before any Contract funds are payable.
    b. As a minimum, invoices shall include: (i) name, address, and telephone number of Contractor and similar information in the event payment is to be made to a different address; (ii) County Contract or Purchase Order number; (iii) identification of products or services as outlined in this Contract; (iv) quantity or quantities, applicable unit prices, total prices, and total amount; and (v) any additional payment information called for by this Contract. County will not pay invoices that are in excess of the amount authorized by the purchase order.
    c. Payment shall be made by check or warrant by County upon satisfactory delivery and acceptance of products and services and submission of an invoice to the address below:
    County Auditor
    712 S Stagecoach Trail, Suite 1071

San Marcos, Texas 78666

d. Payment shall be deemed to have been made on the date of mailing of the check or warrant. For purposes of payment discounts, time will begin upon satisfactory delivery of products and services and/or submission of acceptable invoice, whichever is last. Partial payments will not be made unless specifically requested and approved by County prior to Contract award.
e. Accrual and payment of interest on overdue payments shall be governed by Tex. Gov't Code Ann., ch. 2251.

5. COUNTY TAXES: If the Contractor subsequently becomes delinquent in the payment of County taxes, it will be grounds for cancellation of the contract. Despite anything to the contrary, if the contractor is delinquent in payment of County property taxes at the time of invoicing, Contractor assigns any payments to be made for performance under this contract to the County Tax Assessor-Collector for the payment of delinquent taxes.

6. PROMPT PAYMENT ACT: TEX. GOV'T CODE ANN., ch. 2251 (Vernon Supp. 1995) requires that payments be made within 30 calendar days. If County fails to pay within 30 days, interest on overdue amounts is subject to Chapter 2251, Texas Government Code. The law does not apply if the terms of a federal grant, contract, regulation, or statute prevent local governments from making timely payments with federal funds. Contractors and subcontractors must pay their suppliers interest if the supplier is not paid within 10 calendar days after the contractor or subcontractor receives payment. Contractors must apply for interest payments within 6 months of submitting a proper invoice if they believe such interest was due but not paid. Interest begins accruing 30 days after either of the following, whichever is later; (i) satisfactory delivery or performance has been completed, or, (ii) a correct invoice is received at the designated place.

7. FOB POINT: Delivery of all products under this contract, if any, shall be made Free on Board to final destination, at the address shown in this contract or as indicated on each Purchase Order placed against this contract. The title and risk of loss of the goods shall not pass to County until acceptance takes place at the F.O.B. point.

8. INSPECTION AND ACCEPTANCE: The County office or department receiving items pursuant to this contract shall inspect and accept only those items that are satisfactory to them, and reject those items which are damaged or which do not conform to specifications. Contractor shall be responsible for the proper labeling, packing, and delivery to final destination, including replacement of rejected deliveries.

9. VARIATION IN QUANTITY: No variation in the quantity of any item called for by this contract will be accepted unless such variation has been caused by conditions of loading, shipping, or packing, or allowances in manufacturing processes, and then only to the extent, if any, specified elsewhere in this contract.

10. OFFICIALS NOT TO BENEFIT: If a member of Commissioners Court belongs to a cooperative association, the County may purchase equipment or supplies from the association only if no member of the Commissioners Court will receive a pecuniary benefit from the purchase, other than as reflected in an increase in dividends distributed generally to members of the association.

11. NONDISCRIMINATION; CIVIL RIGHTS/ADA COMPLIANCE:
    a. Contractor shall not engage in employment practices that have the effect of discriminating against employees or prospective employees because of age, race, color, sex, creed, national origin or handicapped condition.
    b. Contractor shall provide all services and activities required in a manner that would comply with the Civil Rights Act of 1964, as amended, the Rehabilitation Act of 1973, Public Law 93-1122, Section 504, and with the provisions of the Americans with Disabilities Act of 1990, Public Law 101-336 [S.933] if Contractor were an entity bound to comply with these laws.

12. CHANGES:
    a. This Contract may be amended only by written instrument signed by both County and Contractor. It is acknowledged by Contractor that NO OFFICIAL, EMPLOYEE, AGENT OR REPRESENTATIVE OF COUNTY HAS

ANY AUTHORITY, EITHER EXPRESS OR IMPLIED, TO CHANGE THE SCOPE OF THIS CONTRACT OR OTHERWISE AMEND THIS CONTRACT, OR ANY ATTACHMENTS HERETO, UNLESS EXPRESSLY GRANTED THAT AUTHORITY BY THE COMMISSIONERS COURT.

b. Contractor shall submit all requests for changes to this Contract or any attachment(s) to it to the Purchasing Manager. The Purchasing Manager shall present Contractor's requests to Commissioners Court for consideration.

13. REPRESENTATIONS:
    a. Contractor represents that he has thoroughly examined the drawings, specifications, schedule, instructions and all other contract documents. Contractor has made all investigations necessary to be thoroughly informed regarding plant and facilities for delivery of material, equipment and/or services as required by the proposal conditions.
    b. The Contractor's delivery time includes weekends and holidays.
    c. Contractor certifies that he is a qualified, bondable business entity that he is not in receivership or contemplates it, and has not filed for bankruptcy. He further certifies that the Company, Corporation, Partnership, or Sole Proprietorship is not delinquent with respect to payment of County property taxes.
    d. Contractor warrants that all applicable patents and copyrights which may exist on items that will be supplied under the contract have been adhered to and further warrants that County shall not be liable for any infringement of those rights. Warranties granted County shall apply for the duration of this contract or for the life of equipment or supplies purchased, whichever is longer. County must not extend use of the granted exclusive rights to any other than County employees or those with whom County has established a relationship aimed at furthering the public interest, and then only for official public uses. County will not knowingly or intentionally violate any applicable patent, license, or copyright. Contractor must indemnify County, its officers, agents, and employees against all claims, suits, and liability of every kind, including all expenses of litigation, court costs, and attorney's fees arising in connection with any alleged or actual infringement of existing patents, licenses or copyrights applicable to items sold.
    e. The Contractor warrants that upon execution of a contract with the County, he will not engage in employment practices which have the effect of discriminating against employees or prospective employees because of age, religion, race, color, sex, creed, handicap, or national origin and will submit reports as the County may require to assure compliance.
    f. Contractor warrants to County that all items delivered and all services rendered will conform to the specifications, drawings, or other descriptions furnished or incorporated by reference, and will be of merchantable quality, good workmanship, and free from defects. Contractor further agrees to provide copies of applicable warranties or guarantees to the Purchasing Manager. Copies will be provided within 10 days after the Notice of Award is issued. Return of merchandise under warranty shall be at Contractor's expense.

14. SUBCONTRACTS:
    a. Contractor shall not enter into any subcontracts for any service or activity relating to the performance of this Contract without the prior written approval or the prior written waiver of this right of approval from County. IT IS ACKNOWLEDGED BY CONTRACTOR THAT NO OFFICER, AGENT, EMPLOYEE OR REPRESENTATIVE OF COUNTY HAS THE AUTHORITY TO GRANT SUCH APPROVAL OR WAIVER UNLESS EXPRESSLY GRANTED THAT SPECIFIC AUTHORITY BY THE COMMISSIONERS COURT.
    b. If a subcontract is approved, Contractor must make a "good faith" effort to take all necessary and reasonable steps to insure DBEs maximum opportunity to be subcontractors under this Contract. Contractor must obtain County approval of all proposed DBE subcontractors through the Purchasing Manager. Failure by Contractor to make a good faith effort to employ HUBs as subcontractors constitutes a breach of this Contract and may result in termination of this Contract. For this project there is no specific DBE participation goal. See Section VIII. HUB Practices for more information regarding the County’s practices related to Historically Underutilized Businesses.

15. ASSIGNMENT:

a. The parties to this Contract shall not assign any of the rights or obligation hereunder without the prior written consent of the other party. No official, employee, representative or agent of County has the authority to approve any assignment under this Contract unless that specific authority is expressly granted by Commissioners Court.
b. The terms, provisions, covenants, obligations and conditions of this Contract are binding upon and inure to the benefit of the successors in interest and the assigns of the parties to this Contract if the assignment or transfer is made in compliance with the provisions of this Contract.
c. Contractor remains responsible for the performance of this Contract when there is a change of name or change of ownership. If a change of name is required, the Purchasing Manager shall be notified immediately. No change in the obligation of or to Contractor will be recognized until it is approved by Commissioners Court.

16. DISPUTES AND APPEALS: The Purchasing Manager acts as the County representative in the issuance and administration of this contract in relation to disputes. Any document, notice, or correspondence not issued by or to the Purchasing Manager or other authorized County person, in relation to disputes is void unless otherwise stated in this contract. If the Contractor does not agree with any document, notice, or correspondence issued by the Purchasing Manager, or other authorized County person, the Contractor must submit a written notice to the Purchasing Manager within ten (10) calendar days after receipt of the document, notice, or correspondence, outlining the exact point of disagreement in detail. If the matter is not resolved to the Contractor's satisfaction, Contractor may submit a written Notice of Appeal to the Commissioners Court, through the Purchasing Manager, if the Notice is submitted within ten (10) calendar days after receipt of the unsatisfactory reply. Contractor then has the right to be heard by Commissioners Court.

17. MEDIATION: When mediation is acceptable to both parties in resolving a dispute arising under this Agreement, the parties agree to use a mutually agreed upon mediator, or a person appointed by a court of competent jurisdiction, for mediation as described in Section 154.023 of the Texas Civil Practice and Remedies Code. Unless both parties are satisfied with the result of the mediation, the mediation will not constitute a final and binding resolution of the dispute. All communications within the scope of the mediation shall remain confidential as described in §154.073 of the Texas Civil Practice and Remedies Code, unless both parties agree, in writing, to waive the confidentiality.

18. FORCE MAJEURE: If the performance by either party of any of its obligations under this Contract is interrupted or delayed due to an act of God or the common enemy or as the result of war, riot, civil commotion, sovereign conduct, or the act or conduct of any person or persons not a party to this Contract, then it shall be excused from performance for such period of time as is reasonably necessary to remedy the effects thereof.

19. NON-WAIVER OF DEFAULT:
    a. No payment, act or omission by County may constitute or be construed as a waiver of any breach or default of Contractor which then exists or may subsequently exist. No official, agent, employee or representative of County may waive any breach of any term or condition of this Contract unless expressly granted that specific authority by the Commissioners Court.
    b. All rights of County under this Contract are specifically reserved and any payment, act or omission shall not impair or prejudice any remedy or fight to County under it. Any right or remedy in this Contract shall not preclude the exercise of any other right or remedy under this Contract or under any law, nor shall any action taken in the exercise of any right or remedy be deemed a waiver of any other rights or remedies.

20. TERMINATION FOR CAUSE: Failure by either County or Contractor to perform any provisions of this Contract shall constitute a breach of contract. Either party may require corrective action within ten (10) calendar days after date of receipt of written notice citing the exact nature of the other's breach. Failure to take corrective action or failure to provide a satisfactory written reply excusing such failure within the ten (10) calendar days shall constitute a default. The defaulting party shall be given a twenty (20) calendar day period within which to show cause why this Contract shall not be terminated for default. All notices for corrective action, breach, default or show cause on

behalf of County shall be issued by the Purchasing Manager or County legal representative only, and all replies to the same shall be made in writing to the County Purchasing Manager or County legal representative at the address provided herein. Notices issued by or to anyone other than the Purchasing Manager or County legal representative shall be null and void, and shall be considered as not having been issued or received. County reserves the right to enforce the performance of this Contract in any manner prescribed by law in case of default and may contract with another party with or without competition or further notification to the contractor. At a minimum, Contractor shall be required to pay any difference in the cost of securing the services covered by this Contract, or compensate for any loss or damage to the County derived hereunder if it becomes necessary to contract with another source because of a default, plus reasonable administrative costs and attorney's fees. In the event of termination for default, County, its agents or representatives, shall not be liable for loss of any profits anticipated under this Contract.

21. TERMINATION FOR CONVENIENCE: County reserves the right to terminate this Contract upon thirty (30) days written notice for any reason deemed by the Commissioners Court to serve the public interest, or resulting from any governmental law, ordinance, regulation, or court order. Termination for convenience shall not be exercised with the sole intention of awarding the same or similar contract requirements to another source. In the event of such termination, County shall pay Contractor those costs directly attributable to work done in preparation for compliance with this Contract prior to termination; provided, however, that no costs shall be paid which are recoverable in the normal course of the business in which Contractor is engaged, nor shall County pay any costs which can be mitigated through the sale of supplies or inventories. If County pays for the cost of supplies or materials obtained for use under this Contract those supplies or materials shall become the property of County and shall be delivered to the FOB point shown in this Contract, or as designated by the Purchasing Manager. County shall not be liable for loss of any profits anticipated under this Contract.

22. DAVIS-BACON ACT – PREVAILING WAGE RATES: All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949, in the construction of development of the project) will be paid unconditionally and not less often than once a week and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3) the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determinations of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b) (2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5 (a) (1) (iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the regular weekly period, Such laborers and mechanics shall be paid not less than the appropriate wage rate and fringe benefits in the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5 (a) (4). Laborers or mechanics may perform work in more than one classification for the time actually worked therein, provided that Contractor's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5 (a)(1)(11) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers. The prime Contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all these provisions.

23. CONTRACT WORK HOURS AND SAFETY STANDARDS: If, in the course of fulfilling the terms of this Agreement, Contractor employs mechanics or laborers to perform work, Contractor recognizes that it must comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, Contractor shall compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible, provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of

40 hours in the work week. Contractor further recognizes that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous.

24. CLEAN AIR – CLEAN WATER: The Contractor under this contract/subcontract agrees as follows:
    a. To comply with all the requirements of section 114 of the Clean Air Act as amended (42 U.S.C. 1857, et seq., as amended by Public Law 91-604) and section 308 of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq., as amended by Public Law 92-500), respectively, relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in section 114 and section 308 of the Air Act and the Water Act, respectively, and all regulations and guidelines issued thereunder before the signing of this contract by the Contracting Local Organization.
    b. That no portion of the work required by this contract will be performed in a facility listed on the Environmental Protection Agency List of Violating Facilities on the date when this contract was signed by the Contracting Local Organization unless and until the EPA eliminates the name of such facility or facilities from such listing.
    c. To use their best efforts to comply with clean air standards and clean water standards at the facilities in which the contract is being performed.
    d. To insert the substance of the provisions of this article in any nonexempt subcontract, including this subparagraph.

25. BYRD ANTI-LOBBYING CERTIFICATION: Contractor certifies, to the best of its knowledge and belief, that:
    a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
    b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure From to Report Lobbying", in accordance with its instructions.
    c. Contractor shall require that the language of this certification be included in the award documents for all subcontractors at all tiers and that all subcontractors shall certify and disclose accordingly.
    d. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code.

26. PROCUREMENT OF RECOVERED MATERIALS: The County seeks to comply with Section 6002 of the Solid Waste Disposal Act including "procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired by the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines." Contractor agrees to ensure the County's compliance with the above-stated Section 6002, if and when applicable to this Agreement. For the purposes of this Section, "Recovered Materials" means waste materials and byproducts which have been recovered or diverted from solid waste, but such term does not include those materials and byproducts generated from, and commonly reused within, an original manufacturing process.

27. GRATUITIES: Contractor shall not provide any gratuity in any form, including entertainment, gifts, or otherwise, to any employee, buyer, agent, or representative of County with a view to securing a contract, or securing favorable treatment with respect to the award or amendment, or the making of any determination with respect to the performance of this Contract. County may terminate this Contract if it is found that gratuities of any kind

including entertainment, or gifts were offered or given by the Contractor or any agent or representative of the Contractor, to any County Official or employee with a view toward securing favorable treatment with respect of this contract. If this Contract is terminated by the County pursuant to this provision, County shall be entitled, in addition to any other rights and remedies, to recover from the Contractor at least three times the cost incurred by Contractor in providing the gratuities.

28. COVENANT AGAINST CONTINGENT FEES: Contractor represents and warrants that no persons or selling agency has been retained to solicit this Contract upon an understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial selling agencies maintained by the Contractor to secure business. For breach or violation of this warranty, County shall have the right to terminate this Contract without liability, or in its discretion to, as applicable, add to or deduct from the Contract price for consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

29. COUNTY ACCESS: Contractor shall maintain and make available for inspection, audit or reproduction by any authorized representative of County all books, documents, and other evidence pertinent to the costs and expenses of this Contract, including but not limited to both direct and indirect costs, cost of labor, material, equipment, supplies, and services, and all other costs and expenses of whatever nature for which reimbursement is claimed under this Contract. All required records shall be maintained until an audit is completed and all required questions arising therefrom are resolved, or three (3) years after completion of the contract term, whichever occurs first; provided, however, the records will be retained beyond the third year if an audit is in progress or the finding of a completed audit have not been resolved satisfactorily.

30. FORFEITURE OF CONTRACT:
    a. The selected Offeror must forfeit all benefits of the contract and County must retain all performance by the selected Offeror Contractor and recover all consideration or the value of all consideration paid to the selected Offeror pursuant to the contract if:
    b. The selected Offeror was doing business at the time of submitting its proposal offer or had done business during the 365- day period immediately prior to the date on which its proposal offer was due with one or more Key Contracting Persons if the selected Offeror failed to disclose the name of any such Key Contracting Person in its offer; or
    c. The selected Offeror does business with a Key Contracting Person after the date on which the offer that resulted in the contract is submitted and prior to full performance of the contract.

31. CONTRACTOR CLAIMS NOTIFICATION:
    a. If any claim, or other action, that relates to Contractor's performance under this Contract, including proceedings before an administrative agency, is made or brought by any person, firm, corporation, or other entity against Contractor, Contractor shall give written notice to County of the following information within ten (10) working days after being notified of it:
        i. The existence of the claim, or other action;
        ii. The name and address of the person, firm, corporation or their entity that made a claim or that instituted any type of action or proceeding;
        iii. The alleged basis of the claim, action or proceeding;
        iv. The court or administrative tribunal, if any, where the claim, action or proceeding was instituted; and
        v. The name or names of any person against whom this claim is being made.
    b. Except as otherwise directed, Contractor shall furnish to County copies of all pertinent papers received by Contractor with respect to making these claims or actions and all court pleadings related to the defense of these claims or actions.

32. CERTIFICATION OF ELIGIBILITY: This provision applies if the anticipated Contract exceeds $100,000. By submitting a bid or proposal in response to this solicitation, the bidder/respondent certifies that at the time of submission, he/she is not on the Federal Government's Excluded Parties List System (www.epls.gov), which details a listing of

suspended, ineligible, or debarred contractors. In the event of placement on the list between the time of bid/proposal submission and time of award, the bidder/respondent will notify the Hays County Purchasing Manager. Failure to do so may result in terminating this Contract for default.

33. CONTRACTOR LIABILITY, INDEMNIFICATION AND CLAIMS NOTIFICATION: Contractor shall indemnify County, its officers, agents, and employees, from and against any and all third party claims, losses, damages, causes of action, suits, and liability of every kind whether meritorious or not and, including all expenses of litigation, court costs, and reasonable attorney's fees, arising in connection with the services provided by Contractor under this Contract. It is the expressed intention of the Parties to this Contract, both Contractor and County, that the indemnity provided for in this paragraph is indemnity by Contractor to indemnify and protect County from the consequences of Contractor's actions.

34. CONSTRUCTION OF CONTRACT:
    a. This Contract is governed by the laws of the United States of America and the State of Texas and all obligations under this Contract are performable in Hays County, Texas. Venue for any dispute arising out of this Contract will lie in the appropriate court of Hays County, Texas.
    b. If any portion of this Contract is ruled invalid, illegal, or unenforceable in any respect by a court of competent jurisdiction, the remainder of it shall remain valid and binding.
    c. Headings and titles at the beginning of the various provisions of this Contract have been included only to make it easier to locate the subject matter covered by that part, section or subsection and are not to be used in construing this Contract.
    d. When any period of time is stated in this Contract, the time shall be computed to exclude the first day and include the last day of period. If the last day of any period falls on a Saturday, Sunday, or a day that Hays County has declared a holiday for its employees, these days shall be omitted from the computation. All hours in this Contract are stated in Central Standard Time from 2:00 o'clock a.m. on the first Sunday of November until 2:00 o'clock a.m. on the second Sunday of March and in Central Daylight Saving Time from 2:00 o' clock a.m. on the second Sunday of March until 2:00 o'clock a.m. on the first Sunday of November or such other dates as may be adopted for the activation of Daylight Savings Time in the United States in future years.
    e. Words of any gender in this Contract shall be construed to include any other gender and words in either number shall be construed to include the other unless the context clearly requires otherwise.
    f. Provisions, Words, Phrases, and Statutes, whether incorporated by actual use or by reference, shall be applied to this Contract in accordance with Texas Government Code, §§ 312.002 and 312.003.

35. ADDITIONAL GENERAL PROVISIONS:
    a. Contractor must comply with all Federal and State laws and regulations, City and County ordinances, orders, and regulations, relating in any way to this Contract.
    b. Contractor must secure all permits and licenses, pay all charges and fees, and give all notices necessary for lawful operations.
    c. Contractor must pay all taxes and license fees imposed by the Federal and the State Governments and their agencies and political subdivisions upon the property and business of Contractor.
    d. Despite anything to the contrary in this Contract, if the Contractor is delinquent in payment of property taxes at the time of providing services, Contractor assigns the amount of any payment to be made for services provided under this Contract equal to the amount Contractor is delinquent in property tax payments to the Hays County Tax Assessor-Collector for the payment of the delinquent taxes.
    e. In this subsection, "County Building" means any County-owned buildings and does not include buildings leased by County. Contractor must not execute any mortgage, or issue any bonds, shares of stock, or other evidence of interest in County Buildings.

36. INTERPRETATION OF CONTRACT:
    a. This document contains the entire agreement between the parties relating to the rights granted and the obligations assumed. Any prior agreements or representations not expressly set forth in this agreement are of no force. Any oral representations or modifications concerning this agreement shall be of no force

except a subsequent modification in writing signed by the Purchasing Manager. No official, representative, employee, or agent of the County has any authority to modify or amend this contract except pursuant to specific authority to do so granted by the Commissioners Court.

b. If inconsistency exists between provisions of this solicitation, the inconsistency shall be resolved by giving precedence in the following ascending order of precedence:
    i. The Schedule of Items/Services
    ii. Terms and Conditions of Request for Qualifications;
    iii. General Provisions;
    iv. Other provisions, whether incorporated by reference or otherwise; and
    v. The specifications.
c. If any contract provision shall for any reason be held invalid, illegal, or unenforceable in any respect, invalidity, illegality, or unenforceability shall not affect any other provision, and this contract shall be construed as if invalid, illegal or unenforceable provision had never been contained.
d. This contract shall be governed by the laws of Texas and all obligations are performable in Hays County, Texas.
e. If a word is used with reference to a particular trade or subject matter or is used as a word of art, the word shall have the meaning given by experts in that particular field.
f. Words in the present or past tense include the future tense. The singular includes the plural and the plural includes the singular. The masculine gender includes the feminine and neuter genders.
g. The headings in this contract have been included only to make it easier to locate the subject covered by each provision and are not to be used in construing this contract.
h. Provisions, words, phrases, and statutes, whether incorporated by actual use or by reference, shall be applied to this contract in accordance with TEX. GOV'T CODE ANN., SEC 312.002, 312.003 (Vernon 1991).

37. MODIFICATIONS:
    a. The County Purchasing Manager may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this contract in any one of the following:
        i. Drawings, designs or specifications when the supplies to be furnished are to be specifically manufactured for the County in accordance with the drawings, designs, or specifications.
        ii. Method of shipment or packing.
        iii. Place of deliveries.
        iv. Correction of errors of a general administrative nature or other mistakes, the correction of which does not affect the scope of the contract, or does not result in expense to the Contractor.
        v. Description of items to be provided.
        vi. Time of performance (i.e. hours of day, days of week, etc.)
    b. If any such change causes an increase or decrease in the cost of, or time required for, performance of any part of the work under this contract whether, or not changed by the order, the Commissioners Court shall make an equitable adjustment in the contract price, the delivery schedule, or both, and shall modify the contract. The Contractor must submit any "proposal for adjustment" under this clause within thirty (30) calendar days from the date of receipt of the written order. However, if the County Purchasing Manager decides that the facts justify it, the County Purchasing Manager may receive and act upon a proposal submitted before final payment of the contract. If the Contractor's proposal includes the cost of property made obsolete or excess by the change, the County shall have the right to prescribe the manner of disposition of the property. Failure to agree to any adjustment shall be a dispute under the Disputes and Appeals clause. However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

38. PRICE CHANGES: The prices offered shall remain firm for the period of the contract. The prices offered shall also remain firm for the option years should the County choose to exercise the option to renew, except for changes that are industry wide and beyond the control of the contractor. If such changes do occur, it will be the responsibility of the contractor to provide documentation to Hays County substantiating the changes to the bid prices. Any price changes must be approved by Hays County.

39. INSURANCE AND LIABILITY: During the period of this contract, contractor shall maintain at his expense, insurance with limits not less than those prescribed below. With respect to required insurance, Contractor shall;
    a. Name County as additional insured as its interests may appear.
    b. Provide County a waiver of subrogation.
    c. Provide County with a thirty (30) calendar day advance written notice of cancellation or material change to said insurance.
    d. Provide the County Purchasing Manager at the address shown on Page 1 of this contract, a Certificate of Insurance evidencing required coverage within ten (10) calendar days after receipt of Notice of Award. Also, assure your certificate contains the contract number as indicated on the Contract Award form when issued by Hays County.
    e. Submit an original certificate of insurance reflecting coverage as follows:

Automobile Liability:	
Bodily Injury (Each person)	$1,000,000.00
Bodily Injury (Each accident)	$1,000,000.00
Property Damage	$1,000,000.00
Commercial General Liability (Including Contractual Liability):	
General Aggregate	$2,000,000.00
Product completed operations aggregate	$2,000,000.00
Bodily Injury (Each accident)	$2,000,000.00
Property Damage	$2,000,000.00
Employers Liability:	
Each accident	$1,000,000.00
Each employee for disease	$1,000,000.00
Policy limit for disease	$1,000,000.00
Excess Liability:	
Umbrella Form	Not Required
Labor Liability:	
Worker's Compensation	Meeting Statutory Requirements

V. Vendor Reference Form

Please list three (3) references of current customers who can verify the quality of service your company provides. The County prefers customers of similar size and scope of work to this proposal/bid. **This form must be returned with your bid/proposal.**

REFERENCE ONE

Company Name: _____

Address: _____

Contact Person and Title: _____

Phone Number: _____

Scope & Duration of Contract: _____

REFERENCE TWO

Company Name: _____

Address: _____

Contact Person and Title: _____

Phone Number: _____

Scope & Duration of Contract: _____

REFERENCE THREE

Company Name: _____

Address: _____

Contact Person and Title: _____

Phone Number: _____

Scope & Duration of Contract: _____

VI. Certificate of Interested Parties

In 2015, the Texas Legislature adopted House Bill 1295, which added 2252.908 to the Texas Government Code and applies to all contracts entered into on or after January 1, 2016. Section 2252.908 (b)(1)(2) applies only to a contract of a governmental entity or state agency that requires an action or vote by the governing body of the entity or agency before the contract may be signed or that has a value of at least $1 million. In addition, pursuant to Section 2252.908 (d), a governmental entity or state agency may not enter into a contract described by Subsection (b) with a business entity unless the business entity, in accordance with this section and rules adopted under this section, submits a disclosure of interested parties to the governmental entity or state agency at the time the business entity submits the signed contract to the governmental entity or state agency.

With regard to Hays County purchases, a vendor or other person who is awarded a contract or purchase approved by Hays County Commissioners Court is required to electronically complete a Form 1295 through the Texas Ethics Commission website at https://ethics.state.tx.us/whatsnew/elf_info_form1295.htm and submit a signed copy of the form to the Hays County Purchasing office. A contract, including County issued purchase order (if applicable), will not be enforceable or legally binding until the County received and acknowledges receipt of the properly completed Form 1295 from the awarded vendor.

If you do not have access to the link provided above or if you have any questions, contact Purchasing at 512-393-2283.

VII. Conflict of Interest Questionnaire

CONFLICT OF INTEREST QUESTIONNAIRE — FORM CIQ

For vendor doing business with local governmental entity

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

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

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

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

OFFICE USE ONLY
Date Received

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

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

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

_____
Name of Officer

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

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

☐ Yes ☐ No

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

☐ Yes ☐ No

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

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

7

_____ _____
Signature of vendor doing business with the governmental entity Date

Form provided by Texas Ethics Commission www.ethics.state.tx.us Revised 11/30/2015

CONFLICT OF INTEREST QUESTIONNAIRE
For vendor doing business with local governmental entity

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

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

(A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;

(B) a transaction conducted at a price and subject to terms available to the public; or

(C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

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

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

***

(2) the vendor:

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

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor;

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

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor.

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

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

(1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);

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

(3) has a family relationship with a local government officer of that local governmental entity.

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

(1) the date that the vendor:

(A) begins discussions or negotiations to enter into a contract with the local governmental entity; or

(B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or

(2) the date the vendor becomes aware:

(A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);

(B) that the vendor has given one or more gifts described by Subsection (a); or

(C) of a family relationship with a local government officer.

VIII. CODE OF ETHICS FOR HAYS COUNTY

Public employment is a public trust. It is the policy of Hays County to promote and balance the objective of protecting government integrity and the objective of facilitating the recruitment and retention of personnel needed by Hays County. Such a policy implemented by prescribing essential standards of ethical conduct without creating unnecessary obstacles to entering public services.

Public servants must discharge their duties impartially so as to assure fair competitive access to governmental procurement by responsible contractors. Moreover, they should conduct themselves in such a manner as to foster public confidence in the integrity of the Hays County procurement organization.

To achieve the purpose of this article, it is essential that those doing business with Hays County also observe the ethical standards prescribed here.

It shall be a breach of ethics to attempt to influence any public employee, elected official or department head to breach the standards of ethical conduct set forth in this code.

It shall be a breach of ethics for any employee of Hays County or a vendor doing business with the county to participate directly or indirectly in a procurement when the employee or vendor knows that:

The employee or any member of the employee's immediate family, or household has a substantial financial interest pertaining to the procurement. This means ownership of 10% or more of the company involved and/or ownership of stock or other interest or such valued at $2500.00 or more.

A business or organization in which the employee, or any member of the employee's immediate family, has a financial interest pertaining to the procurement.

Gratuities: It shall be a breach of ethics to offer, give or agree to give any employee of Hays County or for any employee to solicit, demand, accept or agree to accept from a vendor, a gratuity of consequence or any 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 controversy, any particular matter pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefore pending before this government.

Kickbacks: 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 Hays County as an inducement for the award of a contract or order.

Contract Clause: The prohibition against gratuities and kickbacks prescribed above shall be conspicuously set forth in every contract and solicitation therefore.

Any effort to influence any employee, elected official, or department head to violate the standards of the code is grounds to void the contract. Please certify, by your signature below, that you understand the ethics policy of Hays County and in no way will attempt to violate the code.

SIGNATURE: _____

PRINT NAME & TITLE: _____

COMPANY NAME: _____

IX. Hays County Practices Related to Historically Underutilized Businesses

1. STATEMENT OF PRACTICES

   Hays County will strive to ensure that all businesses, regardless of size, economic, social or ethnic status have an equal opportunity to participate in the County's procurement processes. The County is committed to promote full and equal business opportunity for all businesses to supply the goods and services needed to support the mission and operations of county government, and seeks to encourage the use of certified historically underutilized businesses (HUB's) through the use of race, ethnic and gender neutral means. It is the practice of Hays County to involve certified HUBs to the greatest extent feasible in the County's procurement of goods, equipment, services and construction projects while maintaining competition and quality of work standards. The County affirms the good faith efforts who recognize and practice similar business standards.

2. DEFINITIONS

   Historically underutilized businesses (HUBs), also known as a disadvantaged business enterprise (DBE), are generally business enterprises at least 51% of which is owned and the management and daily business operations are controlled by one or more persons who is/are socially and economically disadvantaged because of his/her identification as a member of certain groups, including women, Black Americans, Mexican Americans, and other Americans if Hispanic origin, Asian Americans and American Indians.

   Businesses include firms, corporations, sole proprietorships, vendors, suppliers, contractors, subcontractors, professionals and other similar references when referring to a business that provides goods and/or services regardless of the commodity category.

   Certified HUB's include business enterprises that meet the definition of a HUB and who meet the certification requirements of certification agencies recognized by Hays County, as expressed below.

   Statutory bid limit refers to the Texas Local Government Code provision that requires competitive bidding for many items valued at greater than $50,000.

3. GUIDELINES

   a. Hays County, its contractors, their subcontractors and suppliers, as well as all vendors of goods, equipment and services, shall not discriminate on the basis of race, color, creed, gender, age, religion, national origin, citizenship, mental or physical disability, veteran's status or political affiliation in the award and/or performance of contracts. All entities doing business or anticipating doing business with the County shall support, encourage and implement affirmative steps toward a common goal of establishing equal opportunity for all citizens and businesses of the County.

   b. Vendors and/or contractors desiring to participate in the HUB program must successfully complete the certification process with the State of Texas or Texas Unified Certification Program. The vendor or contractor is also required to hold a current valid certification (title) from either of these entities.

   c. Vendors and/or contractors must be registered with the State Comptroller's web-based HUB directory and with the Comptroller's Centralized Master Bidder's List (CMBL). Hays County will solicit bids from certified HUB's for state purchasing and public works contracts.

4. Hays County will actively seek and encourage HUBs to participate in all facets of the procurement process by:

   a. Continuing to increase and monitor a database of certified HUB vendors, professionals and contractors. The database will be expanded to include products, areas of expertise and capabilities of each HUB firm.

   b. Continuing to seek new communication links with HUB vendors, professionals and contractors to involve them in the procurement process.

c. Continuing to advertise bids on the County's website and in the newspapers including newspapers that target socially and economically disadvantaged communities.

5. As prescribed by law, the purchase of one or more items costing in excess of the statutory bid limit must comply with the competitive bid process. Where possible, those bids will be structured to include and encourage the participation of HUB firms in the procurement process by:

    a. Division of proposed requisitions into reasonable lots in keeping with industry standards and competitive bid requirements.

    b. Where feasible, assessment of bond and insurance requirements and the designing of such requirements to reasonably permit more than one business to perform the work.

    c. Specifications of reasonable, realistic delivery schedules consistent with the County's actual requirements.

    d. Specifications, terms and conditions reflecting the County's actual requirements are clearly stated, and do not impose unreasonable or unnecessary contract requirements.

6. A HUB practice statement shall be included in all specifications. The County will consider the bidder's responsiveness to the HUB Practices in the evaluation of bids and proposals. Failure to demonstrate a good faith effort to comply with the County's HUB practices may result in a bid or proposal being considered non-responsive to specifications.

7. Nothing in this practice statement shall be construed to require the County to award a contract other than to the lowest responsive bidder as required by law. This practice is narrowly tailored in accordance with applicable law.

Please sign for acknowledgement of the Hays County HUB Practices:

_____ _____

Signature Date

X. Hays County House Bill 89 Verification

I, _____ (Person name), the undersigned representative of _____(Company or Business name, hereafter referred to as Company) being an adult over the age of eighteen (18) years of age, after being duly sworn by the undersigned notary, do hereby depose and verify under oath that the company named above, under the provisions of Subtitle F, Title 10, Government Code Chapter 2270:

1. Does not boycott Israel currently; and
2. Will not boycott Israel during the term of the contract.

Pursuant to Section 2270.001, Texas Government Code:

1. *"Boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes; and*

2. *"Company" means a for-profit sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or any limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of those entities or business associations that exist to make a profit.*

_____ _____
Signature of Company Representative Date

On this _____ day of _____, 20____, personally appeared _____, the above-named person, who after by me being duly sworn, did swear and confirm that the above is true and correct.

NOTARY SEAL

_____
Notary Public in and for the State of Texas

(if other than Texas, Write state in here _____)

_____
Date

XI. Hays County Purchasing Department Senate Bill 252 Certification

Pursuant to Texas Government Code, Chapter 2252, Section 2252.152 and Section 2252.153, certify that the company named below is not listed on the website of the Comptroller of the State of Texas concerning the listing of companies that are identified under Section 806.051, Section 807.051 or Section 2253.153. I further certify that should the above-named company enter into a contract that is on said listing of companies on the website of the Comptroller of the State of Texas which do business with Iran, Sudan or any Foreign Terrorist Organization, I will immediately notify the Hays County Purchasing Department.

_____

Company Name

_____

Print Name of Company Representative

_____

Signature of Company Representative

_____

Date

CERTIFICATION CHECK PERFORMED BY HAYS COUNTY PURCHASING:

On this day; the Purchasing Representative for Hays County in San Marcos, Texas, pursuant to Texas Government Code, Chapter 2252, Section 2252.152 and Section 2252.153, certify that I did review the website of the Comptroller of the State of Texas concerning the listing of companies that is identified under Section 806.051, Section 807.051 or Section 2253.253 and I have ascertained that the above-named company is not contained on said listing of companies which do business with Iran, Sudan or any Foreign Terrorist Organization.

_____

Print Name of Hays County Purchasing Representative

_____

Signature of Hays County Purchasing Representative

_____

Date

_____

RFQ or Vendor number

XII. Debarment and Licensing Certification

STATE OF TEXAS §
§
COUNTY OF HAYS §

I, the undersigned, being duly sworn or under penalty of perjury under the laws of the United States and the State of Texas, certifies that Firm named herein below and its principals:

a. Are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any federal department or agency;
b. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
c. Are not presently indicted for or otherwise criminally or civilly charged by a federal, state or local governmental entity with commission of any of the offenses enumerated in paragraph (1)(b) of this certification;
d. Have not within a three-year period preceding this application/proposal had one or more public (federal, state or local) transactions terminated for cause or default;
e. Are registered and licensed in the State of Texas to perform the professional services which are necessary for the project; and
f. Have not been disciplined or issued a formal reprimand by any State agency for professional accreditation within the past three years.

_____
Name of Firm

_____ _____
Signature of Certifying Official Title of Certifying Official

_____ _____
Printed Name of Certifying Official Date

Where the Firm is unable to certify to any of the statements in this certification, such Firm shall attach an explanation to this certification.

SUBSCRIBED and sworn to before me the undersigned authority by _____on this the day of _____, 20___, on behalf of said Firm.

_____

Notary Public in and for the State of Texas
(if other than Texas, Write state in here _____)

My commission expires: _____

XIII. Vendor/Bidder's Affirmation

- Vendor/Bidder affirms that they are duly authorized to execute this Contract, that this company, corporation, firm, partnership or individual has not prepared this bid in collusion with any other bidder, and that the contents of this bid as to price, terms or conditions of said bid have not been communicated by the undersigned nor by any employee or agent to any other person engages in this type of business prior to the official opening of this bid.

- Vendor/Bidder hereby assigns to Purchaser any and all claims for overcharges associated with this Contract which arise under the antitrust laws of the United States, 15 USCA Section 1 et seq., and which arise under the antitrust laws of the State of Texas, Tex. Bus. & Com. Code, Section 15.01, et seq.

- Pursuant to 262.0276 (a) of the Texas Local Government Code, Vendor/Bidder, hereby affirms that Vendor/Bidder:

  _____ Does not own taxable property in Hays County, or;
  _____ Does not owe any ad valorem taxes to Hays County or is not otherwise indebted to Hays County

_____
Name of Contracting Company

If taxable property is owned in Hays County, list property ID numbers:

_____

_____
Signature of Company Official Authorizing Bid/Offer

_____ _____
Printed Name Title

_____ _____
Email Address Phone

XIV. Appendix II – 2 CFR Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non- Federal entity under the Federal award must contain provisions covering the following, as applicable.

(A) Contracts for more than the simplified acquisition threshold currently set at $150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(B) All contracts in excess of $10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be affected and the basis for settlement.

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of $2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of $100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are

unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of $150,000 must contain a provision that requires the non- Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201).

(I) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide Excluded Parties List System in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1986 Comp., p. 189) and 12689 (3 CFR Part 1989 Comp., p. 235), "Debarment and Suspension." The Excluded Parties List System in SAM contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

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

(K) § 200.322 Procurement of recovered materials—A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded
$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

I have read, understand, and agree to comply with the Federal Affirmations specified above. Checking "YES" indicates acceptance, while checking "NO" denotes non-acceptance.

YES_____ NO_____

Authorized Signature: _____

Printed Name and Title: _____

Respondent's Tax ID: _____ Telephone: _____

If Respondent is a Corporation or other legal entity, please attach a corporate resolution or other appropriate official documentation that states that the person signing this Solicitation Response is an authorized person to sign for and legally bind the corporation or entity.

XV. FHWA 1273 CERTIFICATION

I have read, understand, and agree to comply with the FHWA 1273 presented in Attachment A. Checking "YES" indicates acceptance, while checking "NO" denotes non-acceptance.

YES_____ NO_____

Authorized Signature: _____

Printed Name and Title: _____

Respondent's Tax ID: _____ Telephone: _____

If Respondent is a Corporation or other legal entity, please attach a corporate resolution or other appropriate official documentation that states that the person signing this Solicitation Response is an authorized person to sign for and legally bind the corporation or entity.

XVI. Related Party Disclosure Form

Hays County strives to provide financial transparency to its taxpayers. Completion of this form will allow for added transparency into the procurement process by disclosing Vendor relationships with current or former Hays County employees. The existence of a relationship may not present a legal or ethical conflict for a Vendor. However, disclosure will allow for consideration of potential conflicts and/or ways to eliminate conflicts.

A Vendor who Employs any of the following is required to disclose the relationship on this form:

- Current Hays County employee (including elected or appointed official) (Complete Section A)
- Former Hays County employee who has been separated from Hays County for no less than four (4) years (including elected or appointed official) (Complete Section B)
- Person related within the 2nd degree of consanguinity or affinity to either of the above(1) (Complete Section C)

If no known relationships exist, complete Section D.

This form is required to be completed in full and submitted with the proposal package. A submitted proposal package that does not include this completed form will be considered non-responsive and will not be eligible for an award.

Section A: Current Hays County Employee

_____

Employee Name Title

Section B: Former Hays County Employee

_____

Employee Name Title Date of Separation from County

Section C: Person Related to Current or Former Hays County Employee

_____

Hays Employee/Former Hays Employee Name Title

_____

Name of Person Related Title Relationship

Section D: No Known Relationships

If no relationships in accordance with the above exist or are known to exist, you may provide a written explanation below:

_____

_____

_____

Attach additional pages if necessary.

I, the undersigned, hereby certify that the information provided is true and complete to the best of my knowledge.

_____
Name of Vendor

_____ _____
Signature of Certifying Official Title of Certifying Official

_____ _____
Printed Name of Certifying Official Date

[(1)]A degree of relationship is determined under Texas Government Code Chapter 573. (as outlined below)

Relationship of Consanguinity				
	1st Degree	**2nd Degree**	**3rd Degree***	**4th Degree***
Person	child or parent	grandchild, sister, brother or grand-parent	great-grandchild, niece, nephew, aunt,* uncle* or great-grandparent	great-great-grandchild, grandniece, grandnephew, first cousin, great aunt,* great uncle* or great-great-grandparent
* An aunt, uncle, great aunt or great uncle is related to a person by consanguinity only if he or she is the sibling of the person's parent or grandparent.				

Relationship of Affinity		
	1st Degree	**2nd Degree**
Person	spouse, mother-in-law, father-in-law, son-in-law, daughter-in-law, stepson, stepdaughter, stepmother or stepfather	brother-in-law, sister-in-law, spouse's grandparent, spouse's grandchild, grandchild's spouse or spouse of grandparent

“Vendor” shall mean any individuals or entity that seeks to enter into a contract with Hays County.

“Employs” shall mean any relationship wherein Vendor has made arrangements to compensate an individual, directly or by way of a business organization in which the individual has a sharehold or ownership interest, even if that arrangement is contractual and/or on an hourly-charge basis.

REQUIRED CONTRACT PROVISIONS
FEDERAL-AID CONSTRUCTION CONTRACTS

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

ATTACHMENTS

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

I. GENERAL

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

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

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

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

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

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

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

II. NONDISCRIMINATION

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6. Training and Promotion:

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

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

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

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

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

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

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

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

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

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

8. Reasonable Accommodation for Applicants / Employees with Disabilities: The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

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

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

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

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

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

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

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

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

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

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

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

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

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

III. NONSEGREGATED FACILITIES

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

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

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

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

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

1. Minimum wages

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

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH–1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

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

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

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

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

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

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

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

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

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

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

2. Withholding

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

3. Payrolls and basic records

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

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

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

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

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

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

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

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

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

4. Apprentices and trainees

a. Apprentices (programs of the USDOL).

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

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

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

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

b. Trainees (programs of the USDOL).

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

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

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

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

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

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

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

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

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

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

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

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

10. Certification of eligibility.

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

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

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

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

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

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

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

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

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

VI. SUBLETTING OR ASSIGNING THE CONTRACT

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

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

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

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

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

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

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

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

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

VII. SAFETY: ACCIDENT PREVENTION

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

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

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

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

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

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

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

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

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

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

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

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

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

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

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

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.
2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

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

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

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

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

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

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

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

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

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

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

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

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

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

* * * * *

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

* * * * *

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

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

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

* * * * *

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Authorize the execution of Resolution and grant application submittal to the Office of the Governor, Homeland Security Grants Division for the Hays County HazMat Team Monitor Maintenance project in the amount of $10,000.00.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
CONSENT	January 18, 2022	N/A

LINE ITEM NUMBER

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR REVIEW:** N/A

REQUESTED BY	SPONSOR	CO-SPONSOR
T. Crumley	INGALSBE	N/A

SUMMARY

This grant application is to provide maintenance of the HazMat Team monitors, which will increase the life of the specialized equipment and allow the team to respond with sustainable equipment.

The grant application is due January 31, 2022 through the eGrants portal for review by CAPCOG and no matching funds are required. If approved through CAPCOG the grant will be submitted to the Office of the Governor Homeland Security Division on February 28, 2022 through the eGrants portal.

Grant period October 1, 2022 - September 30, 2023.

Grant number 3529704.

Match Requirement: None

Attachments:
Hays County_HazMat Application
Resolution_Monitor Maintenance

Resolution

STATE OF TEXAS §
§
COUNTY OF HAYS §

WHEREAS, The Hays County Commissioners' Court finds it in the best interest of the citizens of Hays County, that the Hays County HazMat Monitor Maintenance project be operated in the 2023 year; and

WHEREAS, The Hays County Commissioners' Court agrees to provide applicable matching funds for the said project as required by the Office of the Governor, Homeland Security Grant Program – State Homeland Security Program grant application; and

WHEREAS, The Hays County Commissioners' Court agrees in the event of loss or misuse of the Office of the Governor funds, the Hays County Commissioner's Court assures that the funds will be returned to the Office of the Governor in full.

WHEREAS, The Hays County Commissioners' Court designates Ruben Becerra, Hays County Judge as the grantee's authorized official. The authorized official is given the power to apply for, accept, reject, alter or terminate the grant on behalf of the applicant agency.

NOW THEREFORE, BE IT RESOLVED that the Hays County Commissioners Court approves the submission of the grant application for the Hays County HazMat Monitor Maintenance to the Office of the Governor.

ADOPTED THIS THE 18th DAY of JANUARY, 2022

_____
Ruben Becerra
Hays County Judge

Grant Number: 3529702

ATTEST:

_____
Elaine H. Cardenas MBA PhD
Hays County Clerk

Print This Page

Agency Name: Hays County
Grant/App: 3529705 **Start Date:** 10/1/2022 **End Date:** 9/30/2023

Project Title: AET Hays County HazMat Team Monitor Maintenance
Status: Application Pending Submission

Narrative Information

Overview

The purpose of the Homeland Security Grant Program (HSGP) is to support state and local efforts to prevent terrorism and other catastrophic events and to prepare the Nation for the threats and hazards that pose the greatest risk to the security of the United States. HSGP provides funding to implement investments that build, sustain, and deliver the 32 core capabilities essential to achieving the National Preparedness Goal (the Goal) of a secure and resilient Nation. The building, sustainment, and delivery of these core capabilities are not exclusive to any single level of government, organization, or community, but rather, require the combined effort of the whole community. HSGP supports core capabilities across the five mission areas of Prevention, Protection, Mitigation, Response, and Recovery based on allowable costs.

The funding announcement, located on the eGrants Calendar page, describes the organization types, activities, and costs that are eligible under the announcement. The PSO's eGrants User Guide to Creating an Application guides applicants through the process of creating and submitting an application in eGrants. Information and guidance related to the management and use of grant funds can be found in the PSO's Guide to Grants, located on the PSO Resource for Applicants and Grantees webpage.

Primary Mission and Purpose

State Homeland Security Program (SHSP): Supports state, Tribal and local preparedness activities that address high-priority preparedness gaps across all core capabilities where a nexus to terrorism exists. All investments must be consistent with capability targets set during the Threat and Hazard Identification and Risk Assessment (THIRA) process, and gaps identified in the State Preparedness Report (SPR).

Many activities which support the achievement of target capabilities related to terrorism preparedness may simultaneously support enhanced preparedness for other hazards unrelated to acts of terrorism. However, **all SHSP projects must assist grantees in achieving target capabilities related to preventing, preparing for, protecting against, or responding to acts of terrorism.**

Eligibility Requirements

Cybersecurity Training Requirement

Local units of governments must comply with the Cybersecurity Training requirements described in Section 772.012 and Section 2054.5191 of the Texas Government Code. Local governments determined to not be in compliance with the cybersecurity requirements required by Section 2054.5191 of the Texas Government Code are ineligible for OOG grant funds until the second anniversary of the date the local government is determined ineligible. Government entities must annually certify their compliance with the training requirements using the Cybersecurity Training Certification for State and Local Governments. A copy of the Training Certification must be uploaded to your eGrants application. For more information or to access available training programs, visit the Texas Department of Information Resources Statewide Cybersecurity Awareness Training page.

Criminal History Reporting

Entities receiving funds from PSO must be located in a county that has an average of 90% or above on both adult and juvenile dispositions entered into the computerized criminal history database maintained by the Texas Department of Public Safety (DPS) as directed in the *Texas Code of Criminal Procedure, Chapter 66*. The disposition completeness percentage is defined as the percentage of arrest charges a county reports to DPS for which a disposition has been subsequently reported and entered into the computerized criminal history system.

Counties applying for grant awards from the Office of the Governor must commit that the county will report at least 90% of convictions within five business days to the Criminal Justice Information System at the Department of Public Safety.

Uniform Crime Reporting (UCR)

Eligible applicants operating a law enforcement agency must be current on reporting complete UCR data and the Texas specific reporting mandated by 411.042 TGC, to the Texas Department of Public Safety (DPS) for inclusion in the annual Crime in Texas (CIT) publication. To be considered eligible for funding, applicants must have submitted a full twelve months of accurate data to DPS for the most recent calendar year by the deadline(s) established by DPS. Due to the importance of timely reporting, applicants are required to submit complete and accurate UCR data, as well as the Texas-mandated reporting, on a no less than monthly basis and respond promptly to requests from DPS related to the data submitted.

National Incident Management System (NIMS) Implementation

Grantees are required to implement NIMS. The NIMS uses a systematic approach to integrate the best existing processes and methods into a unified national framework for incident management across all homeland security activities including prevention, protection, response, mitigation, and recovery. Grantees must use standardized resource management concepts for resource typing, credentialing, and an inventory to facilitate the effective identification, dispatch, deployment, tracking and recovery of resources.

Emergency Management Plans (Intermediate Level)

Cities and counties must have a current emergency management plan or be a legally established member of an inter-jurisdictional emergency management program with a plan on file with the Texas Division of Emergency Management (TDEM). Plans must be maintained throughout the entire grant performance period. If you have questions concerning your Emergency Management Plan (preparedness) level, contact your Emergency Management Coordinator (EMC) or your regional Council of Governments (COG). For questions concerning plan deficiencies, contact TDEM at tdem.plans@tdem.texas.gov.

Program Income

Applicant agrees to comply with all federal and state rules and regulations for program income and agrees to report all program income that is generated as a result of the project's activities. Applicant agrees to report program income through a formal grant adjustment and to secure PSO approval prior to use of the program income. Applicant agrees to use program income for allowable costs and agrees to expend program income immediately after PSO's approval of a grant adjustment and prior to requesting reimbursement of funds.

Deduction Method - Program income shall be deducted from total allowable costs to determine the net allowable costs. Program income shall be used for current costs unless PSO authorizes otherwise. Program income which the grantee did not anticipate at the time of the award shall be used to reduce the PSO award and grantee match rather than to increase the funds committed to the project.

Asset Seizures and Forfeitures - Program income from asset seizures and forfeitures is considered earned when the property has been adjudicated to the benefit of the plaintiff (e.g., law enforcement entity).

Program Requirements

Building and Sustaining Core Capabilities

1. **All capabilities being built or sustained must have a clear link to one or more Core Capabilities in the National Preparedness Goal.**
2. **Many capabilities which support terrorism preparedness simultaneously support preparedness for other hazards. Grantees must demonstrate this dual-use quality for any activities implemented under this program that are not explicitly focused on terrorism preparedness. Activities implemented under SHSP must support terrorism preparedness by building or sustaining capabilities that relate to the prevention of, protection from, mitigation of, response to, and recovery from terrorism.**
3. **Funding should be used to sustain core capabilities. New capabilities should not be built at the expense of maintaining current and critically needed core capabilities. New capabilities must be aligned with capability targets and gaps identified through the THIRA/SPR process.**

Mission Areas

The National Preparedness Goal organizes the core capabilities into the five mission areas:

- **Prevention. Prevent, avoid or stop an imminent, threatened or actual act of terrorism.**
- **Protection. Protect our citizens, residents, visitors, and assets against the greatest threats and hazards in a manner that allows our interests, aspirations, and way of life to thrive.**
- **Mitigation. Reduce the loss of life and property by lessening the impact of future disasters.**
- **Response. Respond quickly to save lives, protect property and the environment, and meet basic human needs in the aftermath of a catastrophic incident.**
- **Recovery. Recover through a focus on the timely restoration, strengthening and revitalization of infrastructure, housing and a sustainable economy, as well as the health, social, cultural, historic and environmental fabric of communities affected by a catastrophic incident.**

Nationwide Cyber Security Review

Grantees will be required to complete the Nationwide Cybersecurity Review (NCSR), enabling agencies to benchmark and measure progress of improving their cybersecurity posture. The Chief Information Officer (CIO), Chief Information Security Officer (CISO), or equivalent for each recipient agency should complete the NCSR. If there is no CIO or CISO, the most senior cybersecurity professional should complete the assessment. The NCSR is available at no cost to the user and takes approximately 2-3 hours to complete. For more information about the NCSR, visit: https://www.cisecurity.org/ms-isac/services/ncsr/.

Overall Certification

Each applicant agency must certify to the specific requirements detailed above as well as to comply with all requirements within the PSO Funding Announcement, the *Guide to Grants*, the *Grantee Conditions and Responsibilities*, any authorizing or applicable state and federal statutes and regulations to be eligible for this program.
X I certify to all of the application content and requirements.

Project Summary :
Briefly summarize the project, including proposed activities and intended impact.
The Hays County HazMat Team is requesting a continuation of funding for the maintenance of the monitoring equipment utilized to respond and detect chemical, biological, radiological, nuclear or explosive weapons (CBRNE) in the event of a terrorist attack. The CBRNE monitors enhance the capability of the HazMat Team to provide data to the Incident Commander in order to determine the scope of the terrorist attack and the level hazardous materials, as well as identify the immediate threat to public health and safety.

Problem Statement :
Provide a detailed account of the issues, threats or hazards that your project will target. For federal Homeland Security Grants, include specific references to the regional or state *Threat and Hazard Identification and Risk Assessment (THIRA)*, as applicable.
The maintenance of the monitors utilized by the HazMat Team to sustain the capabilities to identify, detect, or locate CBRNE threats/hazards through active surveillance and aligns with the Threat and Hazard Identification and Risk Assessment core capability of Screening, Search, and Detection on page 24 of the THIRA. The actual monitor capabilities would align with the Environmental Response / Health and Safety core capability on page 35 in the THIRA.

Existing Capability Levels :
Describe the existing capability levels, including resources that are currently in place to support this project prior to the use of grant funds.
Three standardized teams have been established to respond region wide. The three teams utilize the same training, search and screening protocols, and function in sync to regionally disperse responsibility areas. Maintenance of the monitoring equipment increases the capability of the HazMat team to identify, discover, or locate any CBRNE agents and respond appropriately to any threats to the region.

Capability Gaps:
Describe the capability gaps which will be addressed by the project. For federal Homeland Security Grants, include specific references to the regional or statewide State Preparedness Report (SPR).
The upkeep and maintenance of the specific monitoring equipment will allow our HazMat team to sustain equipment that is vital to detecting hazardous materials and fills the capability gap in the State Preparedness Report of Screening, Search, and Detection on page 17 and Environmental Response/Health and Safety on page 39.

Impact Statement :
Describe the project goals/objectives and how this project will maintain capabilities or reduce capability gaps.
The maintenance of our HazMat Team monitors will increase the life of the specialized equipment and allow the team to respond regionally to or prevent a terrorist attack with sustained equipment. The HazMat Team has been deployed on average of 110 times per year since 2017. It one of three regional hazmat response teams in the CAPCOG region, therefore it is vital the HazMat team is equipped with monitors that are functioning properly by route maintenance.

Homeland Security Priority Actions:
Identify the Texas Homeland Security Priority Action most closely aligned with this project. Each Priority Action is linked with an *Objective from the Texas Homeland Security Strategic Plan (HSSP)*. List the Priority Action by number and text (e.g. *1.2.3 Expand and enhance the network of human sources that can provide detailed and relevant information on known or suspected terrorist and criminal enterprises*.)
2.2.2 Reduce the risk of chemical, biological, radiological, nuclear, and high-yield explosives (CBRNE) incidents by enhancing control and early detection capabilities.

Target Group :
Identify the target group and population expected to benefit from this project.
The Hays County HazMat Team will directly benefit from this project. However, there will also be a regional benefit as the Hays County HazMat Team may respond to regional HazMat calls as well.

Long-Term Approach:
Describe how the applicant agency will maintain the capabilities supported by this project without additional federal or state funds. If sustainment is dependent upon federal or state grants, describe the ongoing need for future grants, as applicable.
Training on equipment will be the responsibility of the applicant. Additional funding may be sought for upgrades to the equipment or continuing funding for the maintenace.

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Agency Name: Hays County
Grant/App: 3529705 **Start Date:** 10/1/2022 **End Date:** 9/30/2023

Project Title: AET Hays County HazMat Team Monitor Maintenance
Status: Application Pending Submission

Budget Details Information
Budget Information by Budget Line Item:

CATEGORY	SUB CATEGORY	DESCRIPTION	OOG	CASH MATCH	IN-KIND MATCH	GPI	TOTAL	UNIT/%
Contractual and Professional Services	21GN-00-MAIN Maintenance	Maintenance cost for Hazmat Monitoring equipment. Includes 4 RAE AreaRAE Pro, 3RAE systems MutiRAE Lite, annual calibration of 11 Thermo Scientific RadEye-G, and annual calibration of 10 Level A Suits	$10,000.00	$0.00	$0.00	$0.00	$10,000.00	0

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Agency Name: Hays County
Grant/App: 3529705 **Start Date:** 10/1/2022 **End Date:** 9/30/2023

Project Title: AET Hays County HazMat Team Monitor Maintenance
Status: Application Pending Submission

Resolution from Governing Body

Applications from nonprofit corporations, local units of governments, and other political subdivisions must include a resolution that contains the following:

1. Authorization by your governing body for the submission of the application to the Public Safety Office (PSO) that clearly identifies the name of the project for which funding is requested;
2. A commitment to provide all applicable matching funds;
3. A designation of the name and/or title of an authorized official who is given the authority to apply for, accept, reject, alter, or terminate a grant (Note: If a name is provided, you must update the PSO should the official change during the grant period.); and
4. A written assurance that, in the event of loss or misuse of grant funds, the governing body will return all funds to PSO.

Upon approval from your agency's governing body, upload the approved resolution to eGrants by going to the **Upload.Files** tab and following the instructions on Uploading eGrants Files.

Contract Compliance

Will PSO grant funds be used to support any contracts for professional services?

Select the appropriate response:
X Yes
_ No

For applicant agencies that selected **Yes** above, describe how you will monitor the activities of the sub-contractor(s) for compliance with the contract provisions (including equipment purchases), deliverables, and all applicable statutes, rules, regulations, and guidelines governing this project.

Enter a description for monitoring contract compliance:
The project director will be responsible for monitoring the activities of the sub-contractor for compliance with the contract provisions of the monitor maintenance.

Lobbying

For applicant agencies requesting grant funds in excess of $100,000, have any federally appropriated funds been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant loan, or cooperative agreement?

Select the appropriate response:
_ Yes
X No
_ N/A

For applicant agencies that selected either **No** or **N/A** above, have any non-federal funds been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress in connection with this federal contract, loan, or cooperative agreement?

_ Yes
X No
_ N/A

Fiscal Year

Provide the begin and end date for the applicant agency's fiscal year (e.g., 09/01/20xx to 08/31/20xx).

Enter the Begin Date [mm/dd/yyyy]:
10/1/2022
Enter the End Date [mm/dd/yyyy]:
9/30/2023

Sources of Financial Support

Each applicant must provide the amount of grant funds expended during the most recently completed fiscal year for the following sources:
Enter the amount (in Whole Dollars $) of Federal Grant Funds expended:
8061840
Enter the amount (in Whole Dollars $) of State Grant Funds expended:
2342371

Single Audit

Applicants who expend less than $750,000 in federal grant funding or less than $750,000 in state grant funding are exempt from the Single Audit Act and cannot charge audit costs to a PSO grant. However, PSO may require a limited scope audit as defined in 2 CFR Part 200, Subpart F - Audit Requirements.

Has the applicant agency expended federal grant funding of $750,000 or more, or state grant funding of $750,000 or more during the most recently completed fiscal year?

Select the appropriate response:
X Yes
_ No

Applicant agencies that selected **Yes** above, provide the date of your organization's last annual single audit, performed by an independent auditor in accordance with the State of Texas Single Audit Circular; or CFR Part 200, Subpart F - Audit Requirements.

Enter the date of your last annual single audit:
3/31/2021

Debarment

Each applicant agency will certify that it and its principals (as defined in 2 CFR Part 180.995):

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

Select the appropriate response:
X I Certify
_ Unable to Certify

Enter the debarment justification:

FFATA Certification

Certification of Recipient Highly Compensated Officers – The Federal Funding Accountability and Transparency Act (FFATA) requires Prime Recipients (HSGD) to report the names and total compensation of each of the five most highly compensated officers (a.k.a. positions) of each sub recipient organization for the most recently completed fiscal year preceding the year in which the grant is awarded if the subrecipient answers **YES** to the **FIRST** statement but **NO** to the **SECOND** statement listed below.
In the sub recipient's preceding completed fiscal year, did the sub recipient receive: (1) 80 percent or more of its annual gross revenue from Federal contracts (and subcontracts), loans, grants (and subgrants) and cooperative agreements; AND (2) $25,000,000 or more in annual gross revenue from Federal contracts (and subcontracts), loans, grants (and subgrants) and cooperative agreements?
_ Yes
X No

Does the public have access to information about the compensation of the senior executives through periodic reports filed under Section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or Section 6104 of the Internal Revenue Code of 1986?
_ Yes
X No

If you answered **YES** to the **FIRST** statement and **NO** to the **SECOND** statement, please provide the name and total compensation amount of each of the five most highly compensated officers (a.k.a. positions) within your agency for the current calendar year. If you answered NO to the first statement you are NOT required to provide the name and compensation amounts. NOTE: ''Total compensation'' means the complete pay package of each of the sub recipient's compensated officers, including all forms of money, benefits, services, and in-kind payments (see SEC Regulations: 17 CCR 229.402).
Position 1 - Name:
Position 1 - Total Compensation ($):
0
Position 2 - Name:
Position 2 - Total Compensation ($):
0
Position 3 - Name:
Position 3 - Total Compensation ($):
0
Position 4 - Name:
Position 4 - Total Compensation ($):
0
Position 5 - Name:
Position 5 - Total Compensation ($):
0

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Agency Name: Hays County
Grant/App: 3529705 **Start Date:** 10/1/2022 **End Date:** 9/30/2023

Project Title: AET Hays County HazMat Team Monitor Maintenance
Status: Application Pending Submission

Homeland Security Information

FUND SOURCE INFORMATION AND REQUIREMENTS

DHS Project Type: Enhance capabilities to respond to CBRNE events

Capabilities

Core Capability: Screening, Search, and Detection

Identify if this investment focuses on building new capabilities or sustaining existing capabilities. : Existing Capabilities (Sustain)

Are the assets or activities Deployable or Shareable: Deployable

___ Check if this Investment requires new construction or renovation, retrofitting, or modification of existing structures

_X_Check if these funds will support a project that was previously funded with HSGP funding

Project Management Step Involved:

Check the step that most closely resembles the phase of the project activities to be completed during the grant period.

Step: Close Out

Description: The completion of all work on a project. Can also refer to completion of a phase of the project.

Process: Involves formally terminating and concluding all tasks, activities, and component parts of a particular project, or phase of a project.

Milestones

Milestone: Select a vendor to provide maintenance to monitors; **Completion Date:** 10-31-2022
Milestone: Enter into a contract and begin receiving any necessary maintenance to existing monitors; **Completion Date:** 11-15-2022
Milestone: Close Contract and Finalize Payment to Vendor; **Completion Date:** 09-30-2023

NIMS Resources

___ Check if this project supports a NIMS typed resource

Enter the name of the typed resources from the Resource Type Library Tool: Hazardous Materials Response Team

Enter the ID of the typed resources from the Resource Type Library Tool: 4-508-1248

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Authorize the County Judge to execute the Sixth Amended and Restated Development Agreement between the City of San Marcos, Hays County, and Lazy Oaks Ranch, LP in connection with the La Cima development, providing additional standards for the first phase of multifamily development.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
CONSENT	January 18, 2022	N/A

LINE ITEM NUMBER

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR REVIEW:** N/A

REQUESTED BY	SPONSOR	CO-SPONSOR
	SHELL	N/A

SUMMARY

The City of San Marcos has already unanimously approved the Sixth Amended and Restated Development Agreement in connection with the La Cima development. This amendment provides additional standards for the first phase of multifamily development.

STATE OF TEXAS	**§**	**DEVELOPMENT AGREEMENT**
COUNTY OF HAYS	**§**	**LA CIMA SAN MARCOS**

This **SIXTH AMENDED AND RESTATED DEVELOPMENT AGREEMENT** (this "**Agreement**") is made and entered into as of the _____ day of _____, 2022 (the "**Effective Date**"), by and between the **CITY OF SAN MARCOS, TEXAS**, a Texas municipal corporation (the "**City**"), Hays County, Texas (the "**County**"), and **LAZY OAKS RANCH, LP**, a Texas Limited Partnership ("**LOR**"), LCSM Ph. 1-1, LLC, a Texas limited liability company as partial assignee of LOR ("**LCSM Ph.1-1**"), LCSM Ph. 1-2, LLC, a Texas limited liability company as partial assignee of LOR ("**LCSM Ph.1-2**"), LCSM Ph. 2, LLC, a Texas limited liability company as partial assignee of LOR ("**LCSM Ph. 2**"), LCSM Ph. 3, LLC, a Texas limited liability company as partial assignee of LOR ("**LCSM Ph. 3**"), LCSM Ph. 4, LLC, a Texas limited liability company as partial assignee of LOR ("**LCSM Ph. 4**"), La Cima Commercial, LP a Texas partnership as a partial assignee of LOR ("**La Cima Commercial**"), LCSM WW, LLC, a Texas limited liability company as a partial assignee of LOR ("**LCSM WW**"), and LCSM West, LP, a Texas limited partnership ("**LCSM West**" and, together with LOR, LCSM Ph.1-1, LCSM Ph. 1-2, LCSM Ph. 2, LCSM Ph. 3, LCSM Ph. 4, La Cima Commercial, and LCSM WW, the "**Owner**"). The City and Owner are sometimes hereinafter referred to individually as "**Party**", and collectively as the "**Parties**". The Parties agree as follows:

PURPOSES AND CONSIDERATIONS

WHEREAS, the City and LOR entered into that certain Fifth Amended and Restated Development Agreement dated November 23, 2021, and recorded under Document Number 21065547 in the Official Public Records of Hays County, Texas (the "Existing Development Agreement"), related to that certain 2,552.379 acres, more or less, parcels of land (collectively, the "Property") located in the Extraterritorial Jurisdiction ("ETJ") of the City, Hays County, Texas, and more particularly described in **Exhibit "A", Exhibit "A-1", Exhibit "A-2", Exhibit "A-3",** and **Exhibit "A-4",** attached hereto and incorporated herein for all purposes (with the land in Exhibit "A-1" and Exhibit "A-2" collectively, the "La Cima Outparcels"; the land 101.66 acre tract of land and the 22.723 acre tract of land described in Exhibit "A-4" collectively, the "Additional Property"; and the 22.723 acre tract described in Exhibit "A-4" individually, the "Additional 22 Acre Tract");

WHEREAS, Owner desires to develop the Property totaling 2,552.379 acres of land as a single family residential, limited nonresidential and conservation, preservation and open space development generally to foster a walkable and bikeable community in accordance with the **Conceptual Land Use Plan**, as more particularly described in **Exhibit "B"** attached hereto and incorporated herein for all purposes and under the name La Cima San Marcos (the "Project");

WHEREAS, the Property is appraised for ad valorem tax purposes as land for agricultural or wildlife management use or timber land under Chapter 23, Texas Tax Code;

WHEREAS, the City is authorized by Section 43.035 of the Texas Local Government Code to offer to make a development agreement with the owner of land appraised for such purposes pursuant to Section 212.172 of the Texas Local Government Code to defer the annexation of the property until the land owner files a subdivision plat or other development application for any portion of the property;

WHEREAS, by entering into this Agreement, Owner has accepted the City's offer to enter into a development agreement pursuant to both Section 43.035 and Section 212.172 of the Texas Local Government Code with the mutual understanding that this Agreement shall constitute a permit for the purposes of Chapter 245 of the Texas Local Government Code;

WHEREAS, an area adjacent or contiguous to an area that is subject of development agreement entered into under Section 43.035 and Section 212.172 of the Texas Local Government Code is considered to be adjacent or contiguous to the municipality; and

WHEREAS, the City is authorized to amend the Existing Development Agreement and to make and enter

into this Agreement with Owner in accordance with Subchapter G, Chapter 212, Local Government Code and Chapters 1 and 2 of the City's Land Development Code ("LDC"), to accomplish the following purposes:

A. Extend the City's planning authority in accordance with the Conceptual Land Use Plan and the development regulations contained herein under which certain uses and development of the Property is authorized; and

B. Authorize enforcement by the City of municipal land use and development regulations as applicable; and

C. Authorize enforcement by the City of land use and development regulations other than those that apply within the City's boundaries, as may be agreed to by the Parties and included in this Agreement; and

D. Specify the uses and development of the Property before and after annexation; and

E. Provide for infrastructure including, but not limited to, stormwater drainage and water, wastewater and other utility systems; and

F. Include such other lawful terms and considerations the Parties consider appropriate.

NOW THEREFORE, the City and Owner in consideration of the premises, the mutual covenants and agreements of the Parties hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Parties, hereby amend and restate the Existing Development Agreement and agree as follows:

SECTION 1: GENERAL TERMS AND CONDITIONS

1.01 Conceptual Land Use Plan

The City hereby approves the general use and development of the Property in accordance with the Conceptual Land Use Plan, which is incorporated herein as **Exhibit "B"**. **Exhibit "C"** separately shows the proposed Open Space that is part of the Conceptual Land Use Plan. The Conceptual Land Use Plan shall constitute the land use plan under Section 1.4.2.4(g) of the LDC. The Conceptual Land Use Plan may be amended from time to time in accordance with the processes and procedures outlined in Section 1.4.2.6(c) of the City's LDC. Development applications for the Property shall be consistent with the Conceptual Land Use Plan.

1.02 Annexation

Upon approval of this Agreement, Owner agrees to the full purpose annexation of the Property at the time the corporate limits of the City becomes adjacent to the Property. Provided, however, that the City hereby agrees to phase the annexation of the Property as follows: At the time the City's corporate limits become adjacent to the Property, the City may initiate the full purpose annexation of all or any portion of the Property on which a final subdivision plat has been recorded. Upon annexation of all or any portions of the Property, the applicant shall initiate a zoning change for said annexed portions to establish a zoning district(s) that is (are) consistent with the terms and conditions of this Agreement. The City hereby guarantees the continuing ETJ status of the remainder of the Property not subject to a final recorded plat until such time that a final plat is recorded for all or any portion of such remainder of the Property. The Parties hereby agree that all applicable regulations and planning authority of the City's LDC may be enforced on the Property. The limitations on the City's annexation authority shall apply only during the term of this Agreement.

1.03 Governing Development Regulations

A. Development of the Property shall be governed by the following:
   1. The Conceptual Land Use Plan and this Agreement; and
   2. The applicable provisions of the City's LDC and Ordinances;
   3. The applicable provisions of the Development Regulations of Hays County; and

4. Construction plans and final plats for all or any portion of the Property that are approved from time to time by the City (collectively, the "Approved Plats").
5. The Parties acknowledge that prior to or concurrent with the submittal of the first plat application for development on the Property or any portion thereof, a Traffic Impact Analysis (the "TIA") will be required. At the time of submittal of the TIA, the traffic impacts shall be evaluated based on the full build-out development of the entire project (as defined in Section 1.04, below) and not on the individual plat.
6. Applicable provisions of the Texas Local Government Code, and other state and federal laws ("Other Laws").
7. In the event of a conflict between the City's and/or County's development regulations and the Owner's rights under this Agreement, this Agreement shall control.

B. The Conceptual Land Use Plan, this Agreement, the LDC, the Approved Plats, the Required Studies and Other Laws shall hereinafter be referred to collectively as the "Governing Regulations."

C. Plat Approval: Owner and the City agree that the approved land uses in each final plat of portions of the Property shall be consistent with the Conceptual Land Use Plan, as may be amended from time to time.

D. Enforcement: The Parties agree that the City and County shall be entitled to enforce all applicable municipal land use and development regulations for the Property and the Governing Regulations.

E. No Contractual Enlargement of Exemption from City Standards: Notwithstanding any other provision in this Agreement, including references to such things as the "Governing Regulations" or the "Time of Submittal", this Agreement shall in no manner be construed to create any exemption from applicable ordinances or laws, entitlement or vesting of rights beyond what is expressly provided in Chapter 245. Owner specifically acknowledges that development of the Property shall be subject to the City's ordinances, regulations, and policies regarding water and sewer utility connections, including those that address development over the Edwards Aquifer Recharge Zone, as amended from time to time.

F. The Governing Regulations shall be applicable to control the development of the Property. Unless otherwise specifically authorized by the City, the Property may not be developed to a lesser standard than that required by the Governing Regulations.

G. Third Party Inspection Services: Unless an alternative is mutually agreed upon by the Parties, any plan review and building inspections conducted during the permitting process and through receipt of certificate of occupancy shall be conducted by a qualified, third-party plan review and inspection service, mutually agreed upon by the Parties, and results shall be provided in the City's permitting system.

1.04 Permitted Uses, Project Density and Dimensional and Development Standards

Owner envisions the development of the Property as a predominantly single family residential development with limited nonresidential development, open space, conservation and preservation areas in accordance with the Conceptual Land Use Plan. The existing topography and natural areas on the Property provide for opportunities to develop the Property as a conservation development where pods of smaller lot sizes may be clustered to provide for preservation of existing natural features and open space. The Property may be developed as a conservation development, a conventional development or a combination thereof. In order to achieve the maximum development flexibility possible within the Project, this Agreement establishes a variety of uses and lot types and sizes that may be developed on the Property.

A. Permitted Uses: The following uses shall be permitted on the Property in accordance with the City's zoning districts as defined on the Effective Date:
   1. Residential: All permitted uses identified in the SF-R, Single Family Rural Residential District, SF-11, Single Family District, SF-6, Single Family District, SF-4.5, Single Family District, TH, Townhouse Residential District and the PH-ZL, Patio Home Zero Lot Line Residential District.
   2. Nonresidential: All permitted uses identified in the NC, Neighborhood Commercial District shall be permitted within the 3 unit per acre portion of the Property depicted on the Conceptual Land Use Plan. All permitted uses (i) identified in the CC, Community Commercial District and/or (ii) identified in GC, General Commercial District for Film and

Television Production Facilities Uses (as defined below) shall be permitted within the Property depicted as Community Commercial on the Conceptual Land Use Plan, up to a maximum of 200 acres for the combined uses under (i) and (ii). "Film and Television Production Facilities Uses" shall include any television/radio broadcasting studio, recording studio, telecommunication, and/or movie/media productions (including on-site with movie/media productions; any ancillary businesses that supply services, equipment, and resources to any of the forgoing or the movie/media industry in general; and any training center, trade school, and/or vocation centers ancillary or related to any of the foregoing. Nonresidential uses, if developed, are intended to be located at appropriate locations, such as along thoroughfare corridors or at the intersections of major thoroughfares, within the development.

3. Multi-Family: All permitted uses identified in the MF-24, Multiple-Family Residential District shall be permitted within any portion of the Property depicted as Community Commercial on the Conceptual Land Use Plan (but excluding the La Cima Outparcels and the Additional 22 Acre Tract) up to a maximum of 720 units; provided, however, that Purpose Built Student Housing (as established by City Ordinance N0. 2016-24) shall be prohibited.
4. Condominium Residential: A development type allowed in any district containing multiple individually owned dwelling units and jointly owned and shared common areas and facilities on a common lot shall be permitted in any portion of the Property in connection with a Conditional Use Permit approved by the City Council.
5. School Site. The Parties acknowledge that the Project is located within the San Marcos Consolidated Independent School District (the "District"). Owner shall dedicate up to a 12 acre site for a future elementary school to the District at the time of platting of such school site with a maximum impervious cover allocation equal to the greater of 55% of such site or 6.6 acres. The actual terms, size, timing, and location of the school site will be determined by Owner and the District.
6. Fire/Police/EMS Station; Transit Stops. Owner has transferred to the City a 3.505 acre site, located no more than one-third mile driving distance from the intersection of Old Ranch Road 12 and Wonder World Drive, for a future fire station and/or police or EMS station. Such site shall have a maximum impervious cover allocation equal to 2.1 acres. Transit stop locations will be determined by Owner and City at the time of platting of such locations.
7. Conditional uses authorized in the above residential and nonresidential base districts shall only be permitted if approved by the City in accordance with the procedures and requirements of the City's LDC. Any proposed use, other than a Corporate Campus or Film and Television Production Facilities Uses, within a nonresidential area with a single tenant greater than 80,000 square feet in size shall require a Conditional Use Permit in accordance with the City's Land Development Code subject to a recommendations by the Planning and Zoning Commission and final approval by City Council.
8. Notwithstanding anything in this Agreement or in the City's LDC or ordinances to the contrary, no extraction of or exploration for surface or sub-surface mineral resources or natural resources may be conducted on the Property, including but not limited to quarries, borrow pits, sand or gravel operations, oil or gas exploration or extraction activities, and mining operations. This prohibition shall not be interpreted to prohibit excavation of soil in connection with the development of the Property consistent with this Agreement.

B. Project Density: The Project shall be restricted to a maximum of 2,800 dwelling units for an overall project density of 1.10 units per acre ("UPA"). Project density shall be further restricted as follows:
   1. approximately 706.59 acres of the Property located east of Purgatory Creek as illustrated on the Conceptual Land Use Plan shall be restricted to a maximum of 3 units per acre and all lot types provided for in Section 1.04.C of this Agreement are permitted, provided, however, that any portion of the Property depicted as Community Commercial on the Conceptual Land Use Plan as permitted in Section 1.04.A.2. of this Agreement not developed for nonresidential may also be developed for residential uses in accordance with these density and lot type restrictions;
   2. the approximately 712.75 acres of the Property located west of Purgatory Creek shall be restricted to a maximum of 2 units per acre and all lot types provided for in Section 1.04.C of

this Agreement are permitted; and

3. Project density may be distributed evenly or may be clustered utilizing a conservation or clustered development plan provided that the maximum density for each of the designated areas above does not exceed the applicable the maximum density for such designated area and subject to the applicable use, lot type and size restrictions for such designated area, all as described herein and depicted on the Conceptual Land Use Plan.

C. Dimensional and Development Standards: The Property shall be developed in compliance with the following lot sizes, dimensions and development regulations:

1. Single Family Residential Estate Lots
   Lot Area, Minimum: 43,560 sq. ft
   Lot Width, Minimum: 150 feet
   Lot Depth, Minimum: 200 feet
   Lot Frontage, Minimum: 100 feet
   Front Yard Setback, Minimum: 20 feet
   Side Yard Setback, Interior, Minimum: 10 feet
   Side Yard Setback, Corner, Minimum: 20 feet
   Rear Yard Setback, Minimum: 20 feet
   Building Height, Maximum: 2.5 stories
   Impervious Cover, Maximum: 40%

2. Single-Family Residential Rural Lots
   Lot Area, Minimum: 11,000 sq. ft.
   Lot Width, Minimum: 80 feet
   Lot Depth, Minimum: 100 feet
   Lot Frontage, Minimum: 60 feet
   Front Yard Setback, Minimum: 10 feet
   Side Yard Setback, Interior, Minimum: 10 feet
   Side Yard Setback, Corner, Minimum: 10 feet
   Rear Yard Setback, Minimum: 10 feet
   Building Height, Maximum: 2.5 stories
   Impervious Cover, Maximum: 50%

3. Single Family Residential Manor Lots
   Lot Area, Minimum: 6,000 sq. ft.
   Lot Width, Minimum: 50 feet
   Lot Depth, Minimum: 100 feet
   Lot Frontage, Minimum: 35 feet
   Front Yard Setback, Minimum: 10 feet
   Side Yard Setback, Interior, Minimum: 5 feet
   Side Yard Setback, Corner, Minimum: 10 feet
   Rear Yard Setback, Minimum: 10 feet
   Building Height, Maximum: 2 stories
   Impervious Cover, Maximum: 60%

4. Single Family Residential Cottage Lots
   Lot Area, Minimum: 4,500 sq. ft.
   Lot Width, Minimum: 40 feet
   Lot Depth, Minimum: 100 feet
   Lot Frontage, Minimum: 35 feet
   Front Yard Setback, Minimum: 10 feet
   Side Yard Setback, Interior, Minimum: 5 feet
   Side Yard Setback, Corner, Minimum: 10 feet
   Rear Yard Setback, Minimum: 10 feet
   Building Height, Maximum: 2 stories
   Impervious Cover, Maximum: 60%

5. Garden/Patio Home/Zero Lot Line Homes
   Lot Area, Minimum: 2,700 sq. ft.
   Lot Width, Minimum: 28 feet
   Lot Depth, Minimum: 90 feet
   Lot Frontage, Minimum: 25 feet
   Front Yard Setback, Minimum: 10 feet
   Side Yard Setback, Interior, Minimum: 0/5 feet*
   Side Yard Setback, Corner, Minimum: 10 feet*
   Rear Yard Setback, Minimum: 5 feet
   Garage Side Yard Setback Opposite House: 0 feet
   Garage Setback from Front of House: 10 feet
   Building Height, Maximum: 2 stories
   Impervious Cover, Maximum: 75%

   * The primary structure/dwelling may be constructed with a 0 side yard on one side, and a side yard of not less than 5 feet on the other side. A detached accessory structure such as a garage or storage building may have a 0 side yard on the 5 foot side provided, however, the structure is located behind the rear façade of the primary building on the lot. On the 0 side, the structure may be set back a maximum of 1 foot. A 5 foot wide maintenance, drainage, and roof overhang easement extending the full depth of the lot shall be designated along the side property line which abuts the zero side yard on an adjacent lot, and shall be indicated on the Final Plat. In all cases, there shall be at least a 10 foot side yard on corner lots where adjacent to a street right-of-way or alley.

   ** To help achieve the flexibility envisioned and the goals for the development of the Project, the exceptions to the Lot Width to Depth ratio provided in Section 3.6.3.1.B.3.b of the City's LDC shall include and be applicable to Garden/Patio Home/Zero Lot Line lots.

6. Townhouse Residential Lots
   Lot Area, Minimum: 2,500 sq. ft.
   Lot Width, Minimum: 25 feet
   Lot Depth, Minimum: 90 feet
   Lot Frontage, Minimum: 25 feet
   Front Yard Setback, Minimum: 10 feet
   Side Yard Setback, Interior, Minimum: 0 feet attached walls / 5 feet end walls
   Side Yard Setback, Corner, Minimum: 10 feet
   Rear Yard Setback, Minimum: 10 feet
   Building Height, Maximum: 2 stories
   Impervious Cover, Maximum: 75%

7. Multi-Family Residential M-24 Areas.
   Lot Area, Minimum: 12,000 square feet
   Units/Acre (Maximum/Gross Acre): 24.0
   Lot Width, Minimum: 60
   Lot Depth, Minimum: 100
   Lot Frontage, Minimum: 60
   Front Yard Setback, Minimum: 10
   Side Yard Setback, Interior, Minimum: 10
   Side Yard Setback, Corner, Minimum: 15
   Rear Yard Setback, Minimum: 10
   Building Height, Maximum: 4 stories
   Impervious Cover, Maximum: 75%

8. Nonresidential
   Lot Area, Minimum: 6,000 sq. ft.

Lot Width, Minimum: 50 feet
Lot Depth, Minimum: 100 feet
Lot Frontage, Minimum: 50 feet
Front Yard Setback, Minimum: 10 feet
Side Yard Setback, Interior, Minimum: 5 feet
Side Yard Setback, Corner, Minimum: 10 feet
Rear Yard Setback, Minimum: 5 feet
Building Height, Maximum: N/A
Impervious Cover, Maximum: 80%

9. Cluster/Conservation Development
To encourage cluster development within the Project, the following limitations on the location of the above residential lot types shall be applicable:

Slope Limitations	
Slope Gradient	**Lot Types Permitted**
0% to 15%	Single Family Residential Estate Lots Single Family Residential Rural Lots Single Family Residential Manor Lots Single Family Residential Cottage Lots Garden/Patio Home/Zero Lot Line Homes Townhouse Residential Lots
15% to 25%	Single Family Residential Rural Lots Single Family Residential Manor Lots Single Family Residential Cottage Lots Garden/Patio Home/Zero Lot Line Homes
Over 25%	Single Family Residential Estate Lots Single Family Residential Rural Lots Open Space and Conservation Areas

D. Phasing: A phasing plan shall be submitted with a Subdivision Concept Plat to ensure orderly development of the Project. Any portion of the Property developed as MF-24, Multiple-Family Residential District in accordance with Section 1.04.A.3 above shall be developed in a minimum of two phases with the first phase to be no more than 360 units and subject to the requirements in subparagraph 1 below and any subsequent phases shall be deferred until after such first phase is complete and at least 75% occupied and at least 200 single-family homes have been completed and occupied and shall not be subject to the requirements in subparagraph 1 below.
   1. La Cima Phase 1 Multi-Family requirements:
      a. No multi-family buildings shall be located closer than 180 feet to a single-family property line.
      b. Buildings adjacent to the power line easement (Document No. 71422) which are wholly or partially within 180-250 feet of a single-family property line shall not exceed 2 stories in height.
      c. No multi-family buildings shall be located closer than 100 feet to the right-of-way line along West Centerpoint Road.
      d. Buildings which are wholly or partially within 100-170 feet of the West Centerpoint Road right of way shall not exceed 2 stories in height.
      e. No multi-family buildings shall exceed 3 stories in height.
      f. The muli-family development shall be substantially similar to Exhibit F attached hereto as a Concept Plan for Phase 1 Multi-Family. Adjustments to this site plan that are required by City Staff in order to bring the plan into more conformance with applicable City Codes shall be approved by City Planning Director.

E. Architectural Design Standards: Architecture and the built environment are important elements

to the development of the Project. Due to the importance of these elements, all architectural styles should produce a cohesive visual framework while maintaining architectural variety. All architecture should reflect high quality and craftsmanship, both in design and construction. The use of unusual shapes, colors, and other characteristics that cause disharmony should be avoided. A Texas Hill Country style should be reflected through the use of natural materials and textures.

Achieving a high quality of architectural design for all buildings within the Development is considered a principal goal of these design standards. A variety of lot and dwelling types within the neighborhood should be encouraged. Careful design of a neighborhood can mix different housing types and price ranges. Reflecting the vision of the Project, these development standards call for exterior materials that express the natural environment and range of natural materials found in Central Texas.

The Owner shall record deed restrictions regulating the development of the Property which deed restrictions shall incorporate the standards and requirements of this section E. The deed restrictions shall be enforceable by a homeowner's association created by the Owner and shall be subject to the provisions of Section 1.09.

1. Project Residential Architectural Design Standards
    a. A minimum of 100% of each residence on a Single Family Residential Estate lot in accordance with Section 1.04.C.1, excluding doors, windows, fascia, trim, handrails, guardrails, decks, columns, etc., shall be masonry consisting of brick, stone, stucco or a combination thereof.
    b. A minimum of 80% of each residence on the lots identified in Section 1.04.C.2 – 1.04.C.6, excluding doors, windows, fascia, trim, handrails, guardrails, decks, columns, etc., shall be masonry consisting of brick, stone, stucco or a combination thereof.
    c. The number of primary exterior materials shall be limited to three (3) excluding architectural accent features, roof materials, and windows or doors.
    d. Exterior facades shall have a variety of earth tone colors including, but not limited to, reds, browns, light tans, natural and warm whites (stark whites shall be prohibited), buffs, beiges, creams and regionally quarried stone colors.
    e. All facades of a building shall be of consistent design and treatment unless the building facade is not visible from public view.
    f. The use of window awnings, overhangs and shutters is encouraged. Materials and colors shall be the same or complimentary to the exterior of the building.
    g. All single family detached dwellings are encouraged to have front porches or porticos.
    h. Detached garages are permitted and encouraged.
    i. Detached garages with second level dwelling units are permitted provided, however, that second level dwelling units and the primary structure shall be on a single service meter and the occupancy restrictions of the City's LDC prohibiting occupancy by more than more than two unrelated persons will apply.
    j. Corner dwelling units shall present a façade that is consistent in design and architecture to both streets.
    k. Corner dwelling units are encouraged to have wrap around porches.
    l. Corner lots shall have landscaping that is consistent in design and treatment on both street frontages.
    m. Pool and HVAC equipment on corner lots shall be located on the interior side or rear property line.
    n. Trash and waste containers shall be located in an area that is screened from public view.
    o. These standards shall apply equally to additions and/or alterations to existing structures as well as to new structures. All accessory structures shall be constructed in such a manner so as to be compatible in look, style and materials as the primary structures on the project site.
    p. Alternative design standards for all structures may be utilized upon review and approval by the Director of Development Services at the time of site planning. Any decision of the Director of Development Services may be appealed to the Planning and Zoning

Commission.

2. Project Nonresidential Architectural Design Standards
   a. All facades shall use one or more of four native limestone colors: Lueders, Cordova Cream, Sandstone, and Shell Stone, or a similar matching manufactured stone. Comparable materials in color, finish, durability, and quality may be substituted for the referenced materials upon review and approval by the Director of Development Services, appealable to the Planning and Zoning Commission.
   b. Architectural façades that clearly define a base, middle and cap are required. These materials should be responsive to climate, adjacent context, site orientation and building usage.
   c. All buildings within the Project shall be designed with a high level of detail, with careful attention to the combination of and interface between materials. Materials chosen shall be appropriate for the theme and scale of the building, compatible with its location within the development, and expressive of the community's desired character and image. Details and materials shall be consistent on all sides of buildings.
   d. A minimum of 80% of each building, excluding doors and windows, shall be masonry consisting of brick, stone, stucco, split face concrete units, or faux stone or brick.
   e. Front facades shall be oriented towards the street right-of-way as appropriate.
   f. Building entrances shall be recessed from the front façade or located under a shade device such as an awning or portico.
   g. Off-street parking areas shall be shielded from view from the right-of-way through the use of landscape plantings, landscape berms or a combination thereof.
   h. These standards shall apply equally to additions and/or alterations to existing structures as well as to new structures. All accessory structures shall be constructed in such a manner so as to be compatible in look, style and materials as the primary structures on the project site.
   i. Notwithstanding any provision herein to the contrary, any portion of the Property developed as Film and Television Production Facilities Uses in accordance with Section 1.04.A.2 above shall be developed and designed in accordance with the development standards governing such Film and Television Production Facilities Uses that are set forth on **Exhibit "D"** attached hereto.
   j. Alternative design standards for all structures may be utilized upon review and approval by the Director of Development Services at the time of site planning. Any decision of the Director of Development Services may be appealed to the Planning and Zoning Commission.

3. Project Multi-Family Architectural Design Standards. Any portion of the Property developed as MF-24, Multi-Family Residential District in accordance with Section 1.04.A.3 above shall be developed in accordance with the permitted uses and development standards for the MF-24, Multi-Family Residential District (including the multifamily residential design standards set forth in Ordinance 2014-35). Upon submittal of deed restrictions required in Section 1.09 below, the Owner shall meet or exceed the Building Design Section of such multifamily residential design standards. Any deviations from such multifamily residential design standards shall require approval of the City Council.

F. Additional Landscape Standards: In addition to the requirements of the City's LDC, the following landscape standards shall be applicable to the development of the Project:
   1. The use of drought tolerant, native landscape materials, xeriscaping, active or passive rainwater collection, or a combination thereof, is strongly encouraged for all portions of the Project.
   2. Where feasible, native vegetation shall be preserved and remain undisturbed and shall be maintained consistent with any installed landscaping.
   3. Where possible, trees that are intended for removal should be relocated utilizing accepted transplanting or relocation practices. Any trees that are relocated may be counted towards any required tree preservation credits.

4. A minimum of 25% of the total lot area of a NC, Neighborhood Commercial lot and 10% of the total lot area of a CC, Community Commercial lot shall be dedicated to landscaping. The Corporate Campus shall have a minimum of 15% of the total lot area dedicated to landscaping. Any Film and Television Production Facilities Uses shall have a minimum of 15% of the total lot area dedicated to landscaping. All landscape areas on nonresidential lots shall be provided with an irrigation system designed by a Texas Licensed Irrigator consisting of one of, or a combination of, an automatic underground spray or drip irrigation system or a hose attachment. No irrigation shall be required for undisturbed natural areas or undisturbed existing trees.
5. Where a solid ground cover or lawn is proposed for the front yard of a residential lot, the use of an automatic spray or drip irrigation system is strongly encouraged. At a minimum, a hose attachment shall be required within 100 feet of all front yard landscaping to ensure proper hand watering/irrigation.
6. A minimum 100 foot wide tree preservation/open space landscape buffer setback shall be provided adjacent to the existing Fox Ridge single family residential subdivision along the northwest property line and along the portion of Purgatory Creek that borders the existing Settlement subdivision. The Conceptual Land Use Plan illustrates the location of this tree preservation/open space landscape buffer and provides GIS coordinates at various points along the buffer for reference. This tree preservation/open space landscape buffer is intended to serve as a buffer from the adjacent lots in the Fox Ridge and Settlement Subdivisions. The tree preservation/open space landscape buffer setback will be privately owned and maintained by the Property Owner. Unless otherwise approved through a Site Development Permit, there shall be no clearing, grading or public access within the tree preservation/open space landscape buffer setback area except as may be necessary to allow for the construction of a fence along a property line. The tree preservation/open space landscape buffer setback area shall be maintained free of all, trash, rubbish, debris or other similar nuisances and fire hazards in accordance with this agreement and the requirements of the City of San Marcos Code of Ordinances.
7. The boundary between the Residential 2 U/A area and southeastern most portion of the "Conservation or Open Space or Proposed Habitat (RHCP) Preserve" as illustrated on the Conceptual Land Use Plan and generally located between the existing Fox Ridge/Settlement subdivisions and the Residential 2 U/A area within the Project, south of Purgatory Creek, has been delineated with GIS coordinates as provided on the Conceptual Land Use Plan.

1.05 Public Infrastructure Improvements

A. The City hereby agrees to allow the extension, improvements of, and connections to City water and wastewater facilities to provide service to the Project up to a maximum of 4,000 service units equivalent. Owner anticipates that the Project will require 4,000 service units of water and wastewater from the City. At the time of execution of this Agreement, City anticipates that it will have sufficient water and wastewater capacity to serve the Project. City further acknowledges that its approval of any subdivision plat of property within the Project shall constitute a representation by the City that it has sufficient water and wastewater capacity available to serve the platted lots at the time of plat approval.

B. All water and wastewater infrastructure required to serve the Project shall be designed and built to the City's construction standards and in conformance with all rules, regulations and ordinances related to the construction and extension of water and wastewater utilities in effect at the time of submittal of construction plans and shall be subject to review and inspection by the City prior to acceptance.

C. The property owner/developer shall be responsible for the payment of all costs associated with the extension and improvements of infrastructure required to properly serve the development of the Property, which costs may be financed through the PID described in Section 1.05.B below. Prior to the acquisition of any off-site easements or rights-of-way the proposed utility alignments shall be approved by the City. The Owner is responsible for the acquisition of all necessary easements to serve the proposed development. In the event the Owner is unable to acquire an easement through reasonable commercial efforts the Owner may request the assistance of the City. Within 30 days of the receipt of a written request from the Owner, the City will commence

an effort, exercising all powers available to the City as a Home Rule municipality, to acquire the necessary easements. The City will direct the work of an acquisition team, acceptable to the City and the Owner, contracted and paid by the Owner, in order to acquire the necessary easements.

D. Notwithstanding the foregoing, nothing herein shall be construed to prohibit the parties and/or adjacent developments or subdivisions from mutually agreeing to cost participate or oversize reimbursement on specifically defined infrastructure in accordance with applicable City and State requirements for such participation or reimbursement.

E. To ensure a high quality, attractive development, where feasible, all utility infrastructure, including but not limited to water, wastewater and electrical infrastructure, for the Project shall be placed underground. All utility appurtenances that are required to be above ground may be placed above ground as necessary to serve the development of the Property. All extensions shall be made in a public utility easement or public right-of-way (ROW).

F. The Owner hereby requests and supports the City expanding its water and wastewater Certificate of Convenience and Necessity areas as necessary to serve the development of the Project.

G. The City hereby acknowledges that the County authorized the creation of a Public Improvement District ("PID") on approximately 2,029 acres of the Property (the "Existing PID") on September 23, 2014, pursuant to a County Resolution adopted pursuant to Chapter 372 of the Local Government Code (the "Existing PID Resolution"). If the Owner submits a petition to the County requesting that all or any portion of the remainder of the Property be added to the Existing PID or that a new PID be created for such portion of the remainder of the Property, the City hereby agrees to not oppose such petition.

H. The City hereby recognizes and acknowledges that oversizing of infrastructure improvements may be necessary to accommodate future growth and development of adjacent properties. In the event that oversizing is determined to be appropriate, the City shall enter into an agreement with the Owner in accordance with Section 7.1.3.1 of the Land Development Code.

I. The City and the County are willing to consider Chapter 380 and Chapter 381 economic development incentive agreements for the commercial portions of the Project. The terms, conditions, and amount of any incentive agreements shall be determined by separate agreement of the City, County, Owner, and/or applicable third parties.

J. Street Standards. All streets and roads within the Property shall be designed and constructed in conformance with the design guidelines and cross sections adopted by the City of San Marcos in accordance with Context Sensitive Street Design Standards. Alternative street design standards and cross sections for all streets may be utilized upon review and approval by the City and County Directors of Development Services at the time of detailed engineering and platting. Any decision of the City and County Directors of Development Services may be appealed to the Planning and Zoning Commission and the County Commissioners Court.

1.06 Impervious Cover

The maximum allowable impervious cover for the Property ("Permitted Maximum Allowable Property Impervious Cover") shall be 19% of the 2,552.379 acres of the gross area of the Property (which gross area expressly includes the 700.2 acres of gross area of the Conservation Habitat (RHCP) Preserve, and the 91.5 acres of additional Purgatory Creek Open Space shown on the Conceptual Land Use Plan attached hereto as **Exhibit "B"**, regardless of whether Owner conveys a perpetual conservation or other easement or fee simple title to any portion of such areas to the City, the County, or any other governmental entity or conservation organization). The total Permitted Maximum Allowable Property Impervious Cover may be distributed throughout the Property or may be clustered as necessary provided that the total impervious cover on the 2,552.379 acres of the gross area of the Property does not exceed the Permitted Maximum Allowable Property Impervious Cover. If any portion of the Property is used for the right-of-way for Centerpoint Road, then the gross area of such portion of the Property and any impervious cover placed on such portion of the Property shall be excluded from all impervious cover calculations with respect to the remainder of the Property.

Clustering Incentives in accordance with Section 5.2.8 of the City's LDC may be utilized within the Property subject to the City's approval of a Qualified Watershed Protection Plan Phase 1 and shall be subject to review and approval of all applicable City of San Marcos permits including Watershed Protection Plans, Site Preparation Permits and Environmental and Geologic Assessments and shall

be subject to all City of San Marcos and TCEQ regulations for buffering and protection of sensitive features, if any such features are identified on the Property.

1.07 Environmental, Water Quality & Detention Standards

The development of the Property shall comply with Chapter 5 of the Land Development Code as amended on March 4, 2014 and the associated City of San Marcos Storm Water Technical Manual; provided, however, that development of the Additional Property shall comply with Chapter 6 of the Land Development Code as amended on April 17, 2018; provided, further, that development of any portion of the Property for Film and Television Production Facilities Uses shall comply with Chapter 6 of the Land Development Code as amended on September 1, 2020, as supplemented and modified by those development standards set forth on **Exhibit "D"** attached hereto. No portion of the Project shall contain concrete storm water detention boxes. Development of the Property will adhere to a standard for removal of a minimum of 85% of the increase in Total Suspended Solids (TSS) after full development of the Property over the baseline existing conditions before development of the Property. The 85% TSS removal may be accomplished utilizing traditional best management practices (BMP's), approved low-impact development (LID) practices, or a combination thereof. All BMP's shall be designed and maintained by the Owner to achieve the performance standard of 85% TSS removal. BMP's for treatment and detention of stormwater proposed for development of this Property may include, but shall not be limited to traditional BMP's such as detention ponds, grass-lined swales, rain gardens, bioswales, biofiltration ponds and native drought-tolerant plants for landscaping or non-traditional, innovative BMP's. The technical design of traditional BMP's shall be in accordance with the City of San Marcos Storm Water Technical Manual. The use of innovative or non-traditional BMP's shall be approved by the City and used within the Property when accompanied by supporting documentation (i.e. product research / testing or acceptance from other jurisdictions) illustrating the effectiveness of the BMP's in achieving treatment standards identified herein. The technical design of innovative or non-traditional BMP's shall be in accordance with supplied supporting documentation. Approved vegetative buffers and filters shall not include invasive species.

Low Impact Development (LID) techniques allow for greater development potential with less environmental impacts through the use of smarter designs and advanced technologies that achieve a better balance between conservation, growth, ecosystem protection, public health, and quality of life. Where feasible and practical to achieve maximum water quality standards, the development within the Property may incorporate various LID techniques, in one form or another, that work in conjunction with traditional BMP's to achieve 85% TSS removal.

Development of the Property may incorporate pervious paving materials such as pervious pavers, pervious concrete (grasscrete or ecocrete) or other pervious paving materials where appropriate. For pervious paving materials used, technical documentation demonstrating the pervious nature of the specific system or systems as installed shall be provided and approved by the City. In the event that City approved pervious paving materials are utilized, the development of the Property shall receive credit towards the Permitted Maximum Allowable Impervious Cover.

During the construction process, stabilization and protection measures shall be utilized to limit site disturbance to the construction perimeter (the limits of construction). The type and adequacy of the erosion and sedimentation controls shall be subject to approval of the Director of Development Services prior to installation. All erosion and sedimentation controls shall be monitored and maintained at all times during the construction process. A combination of various approved erosion and sedimentation control measures will be implemented where appropriate.

Discharge of sediment from the construction site shall be minimized and controlled as per applicable City, State and Federal requirements. It shall be the responsibility of the Owner and its contractors to clean up any discharge of sedimentation from the Property. No construction shall begin until all required City Plans are approved and a stormwater pollution prevention plan (SWPPP) is produced by the Owner and approved by the City. An erosion and sedimentation control program shall include construction sequencing and sedimentation/erosion control measures to be implemented during construction. The type and adequacy of the erosion and sedimentation controls shall be subject to

City approval prior to installation. All erosion and sedimentation controls shall be monitored and maintained at all times during the construction process, and shall be inspected on an appropriate frequency, as specified in the SWPPP, and results shall be available for inspection by the City at all times.

A full Water Pollution Abatement Plan (WPAP) including a geologic assessment and geotechnical report, prepared by a licensed third-party engineer and/or professional geologist selected by the Owner and approved by the City of San Marcos Director of Engineering and Capital Improvements, shall be provided by the Owner and approved by the City, prior to the approval of any final plat on the Property or any portion thereof. The WPAP documents shall include construction sequencing and detailed means and methods for drainage and sedimentation/erosion control measures to be implemented during construction. The type and adequacy of the erosion and sedimentation controls shall be subject to City approval prior to installation. All erosion and sedimentation controls shall be monitored and maintained at all times during the construction process, and shall be inspected on an appropriate frequency (as specified in the approved WPAP) by a qualified, third-party engineering inspector, and results shall be provided to the City following each inspection.

A maintenance agreement for the permanent BMPs on the Property written according to Sections 5.1.1.7 and 5.1.1.8 of the LDC shall be submitted. The maintenance agreement shall include provisions for testing and monitoring BMPs to make sure required volumes and other characteristics are still intact as originally designed. An easement for inspection and monitoring purposes in favor of an in a form acceptable to the City must be provided by the property owner.

1.08 Parkland and Open Space Dedication

A. In the event the Property is fully built out (i.e., the maximum 2,800 units under Section 1.04B is achieved across the entire property), the maximum total required parkland dedication shall be 35.64 acres. The development of the Property will meet or exceed all applicable parkland dedication requirements of the City. Except as may otherwise be permitted by the City, dedication of all or any portion of the required parkland shall occur in conjunction with the final plat on all or any portion of the Property.
B. All parkland, open space, sidewalks and trails, and designated amenities that are not owned and maintained by the Homeowners Association shall be open and available to the public, subject to any applicable rules and regulations of the U.S. Fish and Wildlife Service and the RHCP. Access to the parkland and open space shall be provided at the time of subdivision platting.
C. In addition to the required public parkland dedication amount indicated above, a variety of private active and passive recreational facilities ranging from small neighborhood pocket parks to larger improved common areas or parks are envisioned. These facilities shall be connected through a pedestrian network consisting of sidewalks and/or trails. The Project's network of trails will be approximately 10-14 miles and provide connectivity to the Purgatory Creek Natural Area with a small parking area at such time and in such location as determined by Owner and City.
    1. The minimum width for a sidewalk shall be six feet (6').
    2. Sidewalks shall be constructed of concrete or asphalt.
    3. Sidewalks may be located adjacent to the street right-of-way and incorporated into an appropriate street cross-section.
    4. The minimum width for a trail shall be eight feet (8').
    5. Trails may be constructed of concrete, asphalt, crushed granite, or other material common in trail construction.
    6. Trails may be located adjacent to the street right-of-way and be incorporated as part of an alternative street cross-section upon the approval by the Director of Development Services or may be constructed in open space areas or improved common areas.
    7. The location of sidewalks and trails shall be determined at the time of preliminary platting and development of infrastructure construction plans and shall be included as part of a Subdivision Improvement Agreement.

1.09 Deed Restrictions and Creation of Homeowner's Association

The Owner shall create a homeowner's association responsible for, among other things, enforcement

of deed restrictions required under this Agreement. The homeowner's association shall be created and deed restrictions recorded before commencement of any development on all or any portion of the Property. The deed restrictions shall be submitted to the City for review to determine consistency with this Agreement before recording. The homeowner's association shall be duly authorized, under applicable laws, to enforce the deed restrictions against all owners and developers of land within the Property. Any deed restrictions, and amendments thereto, regulating development of the Property shall be recorded in the Official Public Records of Hays County, Texas. Any deed restrictions regulating development of the Property, and any amendments thereto, shall be subject to this Agreement. Such deed restrictions shall further include a statement that they are subject to this Agreement and that, in the event of a conflict between the deed restrictions and this Agreement, this Agreement shall govern.

1.10 Hays County Regional Habitat Conservation Plan & Endangered Species Act

Prior to any development activity as defined in the City's LDC, the Owner shall comply with the Endangered Species Act, specifically related to the golden-cheeked warbler or black-capped vireo, by either obtaining approvals from the U.S. Fish and Wildlife Service or through voluntary participation in the Hays County Regional Habitat Conservation Plan ("RHCP").

SECTION 2: MISCELLANEOUS PROVISIONS

2.01 Term

A. This Agreement shall commence and bind the Parties on the Effective Date and continue until all of the Property has been annexed for full purposes by the City (the "Term"), unless sooner terminated as provided in Section 2.01.C below. If, however, no progress toward completion of the Project, as defined under Section 245.005 of the Texas Local Government Code, is made within five (5) years of the date of this Agreement, this Agreement shall expire and Owner hereby agrees that any development of the Property shall comply with the ordinances in effect at the time the first plat application for any portion of the property is filed. This written Agreement may be extended for additional terms as allowed by law upon mutual written agreement of the parties.

B. After the expiration or termination of this Agreement, this Agreement will be of no further force and effect.

C. This Agreement may be terminated or amended as to all or any portion of the Property at any time by mutual written agreement between the City and Owner.

2.02 Authority

This Agreement is entered into, in part, under the statutory authority of Section 212.172 of the Texas Local Government Code and the applicable provisions of the Texas Constitution and the laws of the State of Texas. By virtue of this Agreement, Owner agrees to authorize the full purpose annexation of the Property by the City subject to applicable provisions of Chapter 43 of the Texas Local Government Code and in accordance with the terms and conditions set forth in this Agreement.

2.03 Equivalent Substitute Obligation

If any Party is unable to meet an obligation under this Agreement due to a court order invalidating all or a portion of this Agreement, preemptive state or federal law, an imminent and bona fide threat to public safety that prevents performance or requires different performance, changed circumstances or subsequent conditions that would legally excuse performance under this Agreement, or any other reason beyond the Party's reasonable and practical control, the Parties will cooperate to revise this Agreement to provide for an equivalent substitute right or obligation as similar in terms to the illegal, invalid, or unenforceable provision as is possible and is legal, valid and enforceable, or other additional or modified rights or obligations that will most nearly preserve each Party's overall contractual benefit under this Agreement.

2.04 Cooperation

The Parties agree to execute and deliver all such other and further documents or instruments and undertake such other and further actions as are or may become necessary or convenient to effectuate

the purposes and intent of this Agreement.

2.05 Litigation

In the event of any third-party lawsuit or other claim relating to the validity of this Agreement or any action taken by the Parties hereunder, Owner and the City agree to cooperate in the defense of such suit or claim, and to use their respective best efforts to resolve the suit or claim without diminution of their respective rights and obligations under this Agreement, but only to the extent each party determines, in its sole discretion, that its interests are aligned or not in conflict with the other party's interests. The filing of any third-party lawsuit relating to this Agreement or the development of the Property will not delay, stop, or otherwise affect the development of the Property or the City's processing or issuance of any approvals for the development of the Property, unless otherwise required by a court of competent jurisdiction. The City agrees not to stipulate or agree to the issuance of any court order that would impede or delay the City's processing or issuance of approvals for the development of the Property.

2.06 Default

Notwithstanding anything herein to the contrary, no Party shall be deemed to be in default hereunder until the passage of thirty (30) business days after receipt by such party of notice of default from the other Party. Upon the passage of thirty (30) business days without cure of the default, such Party shall be deemed to have defaulted for all purposes of this Agreement. In the event of a non-cured default, the non-defaulting Party shall have all the rights and remedies available under applicable law, including the right to institute legal action to cure any default, to enjoin any threatened or attempted violation of this Agreement, or to enforce the defaulting Party's obligations under this Agreement by specific performance. Nothing herein shall prevent the Parties from extending the above specified time frames for default and/or cure by mutual written agreement.

2.07 Governmental Powers; Waiver of Immunity

It is understood that by execution of this Agreement the City does not waive or surrender any of its governmental powers, immunities or rights.

2.08 Governing Law and Venue

The City and Owner agree that this Agreement has been made under the laws of the State of Texas in effect on this date, and that any interpretation of this Agreement at a future date shall be made under the laws of the State of Texas. The City and the Owner further agree that all actions to be performed under this Agreement are performable in Hays County, Texas.

2.09 Attorney's Fees

If any action at law or in equity, including an action for declaratory relief, is brought to enforce or interpret the provisions of this Agreement, the prevailing Party shall be entitled to recover reasonable attorney's fees from the other Party. The amount of fees recoverable under this paragraph may be set by the court in the trial of the underlying action or may be enforced in a separate action brought for that purpose, and any fees recovered shall be in addition to any other relief that may be awarded.

2.10 Entire Agreement

This Agreement, together with any exhibits attached hereto, constitutes the entire agreement between the Parties and supersedes any prior or contemporaneous written or oral understandings or representations of the Parties with respect to this Agreement, including superseding the Existing Development Agreement.

2.11 Exhibits/Amendment

All exhibits attached to this Agreement are incorporated by reference and expressly made part of this Agreement as if copied verbatim. This Agreement may be amended only by mutual agreement of the Parties and in accordance with the applicable procedures outlined in Section 1.4.2.6(c) the City's LDC.

2.12 Severability

If any section, subsection, sentence, clause, phrase, paragraph, part or provision of this Agreement be declared by a court of competent jurisdiction to be invalid, illegal, unconstitutional or unenforceable in any respect, such unenforceability, unconstitutionality, illegality or invalidity shall not affect any of the remaining sections, subsections, sentences, clauses, phrases, paragraphs, parts or provisions of this Agreement as a whole, or in any part, since the same would have been enacted by the City Council without the incorporation in this Agreement of any such invalid, illegal, unconstitutional or unenforceable section, subsection, sentence, clause, phrase, paragraph, part or provision.

2.13 Interpretation

Wherever required by the context, the singular shall include the plural, and the plural shall include the singular.

2.14 Notice

Any notice, request or other communication required or permitted by this Agreement shall be in writing and may be affected by overnight courier or hand delivery, or by sending said notice by registered or certified mail, postage prepaid, return receipt requested, and addressed to the Parties as set forth below. Notice shall be deemed given when deposited with the United States Postal Service with sufficient postage affixed.

Any notice mailed to the City shall be addressed to:

City Manager
City of San Marcos
630 E. Hopkins Street
San Marcos, Texas 78666

Any notice mailed to the County shall be addressed to:

Director of Development Services
Hays County
2171 Yarrington Road
San Marcos, TX 78666

Any notice mailed to LOR, LCSM Ph. 1-1, LCSM Ph.1-2, LSCM Ph. 2, LCSM Ph. 3, LCSM Ph. 4, La Cima Commercial, LCSM WW or LCSM West shall be addressed to:

c/o Dubois, Bryant & Campbell, LLP
Attn: Mr. Bryan W. Lee, Manager
303 Colorado, Suite 2300
Austin, Texas 78701

2.15 Force Majeure

Owner and the City agree that the obligations of each party shall be subject to force majeure events such as natural calamity, fire or strike.

2.16 Assignment

As of the Effective Date, Owner owns the Property. Owner may assign its rights and obligations under this Agreement to any third party (ies) only after providing written notice of assignment to the City. The terms of this Agreement shall be covenants running with the land and binding on successors and assigns.

2.17 Signatures

The City represents that this Agreement has been approved and duly adopted by the City Council of the City in accordance with all applicable public meeting and public notice requirements including, but not limited to, notices required by the Texas Open Meetings Act, and that the individual executing this Agreement on behalf of the City has been authorized to do so. Owner represents and warrants

that this Agreement has been approved by appropriate action of Owner and that the individual executing this Agreement on behalf of Owner has been authorized to do so.

2.18 Successors and Assigns and Recordation

The terms of this Agreement shall be covenants running with the land and binding on successors and assigns. Pursuant to the requirements of Section 212.172(f), Local Government Code, this Agreement shall be recorded in the official public records of Hays County, Texas. The terms of this Agreement shall be binding upon: (a) the Parties; (b) the Parties' successors and assigns; (c) the Property; and (d) future owners of all or any portion of the Property. Notwithstanding the foregoing, however, this Agreement shall not be binding upon, and shall not constitute any encumbrance to title as to, any end-buyer of a fully developed and improved lot within the Property except for land use and development regulations within this Agreement that apply to specific lots, including architectural, environmental and water quality, landscaping and setback and dimensional standards, and impervious cover limits, together with applicable rights of enforcement in this Agreement as to such land use and development regulations.

2.19 Counterpart Originals

This Agreement may be executed in counterparts, each of which shall be deemed to be an original.

[*Signature Page Follows*]

EXECUTED to be effective as of the Effective Date first stated above.

CITY OF SAN MARCOS, TEXAS

By: _____
Name:
Title:

HAYS COUNTY, TEXAS

By: _____
Name:
Title:

LAZY OAKS RANCH, LP, a Texas Limited Partnership

By: Lazy Oaks GP, LLC, its general partner

By: _____
Bryan W. Lee
Its: Manager

LCSM PH. 1-1, LLC, a Texas Limited Liability Company

By: _____
Name: Bryan W. Lee
Title: Manager

LCSM PH. 1-2, LLC, a Texas Limited Liability Company

By: _____
Name: Bryan W. Lee
Title: Manager

LCSM PH. 2, LLC, a Texas Limited Liability Company

By: _____
Name: Bryan W. Lee
Title: Manager

LCSM PH. 3, LLC, a Texas Limited Liability Company

By: _____
Name: Bryan W. Lee
Title: Manager

LCSM PH. 4, LLC, a Texas Limited Liability Company

By: _____
Name: Bryan W. Lee
Title: Manager

LA CIMA COMMERCIAL, LP, a Texas Limited Partnership

By: La Commercial GP, LLC, its general partner

By: _____
Name: Bryan W. Lee
Title: Manager

LCSM WW, LLC, a Texas Limited Liability Company

By: _____
Name: Bryan W. Lee
Title: Manager

LCSM WEST, LP, a Texas Limited Partnership

By: LCSM West GP, LLC, its general partner

By: _____
Name: Bryan W. Lee
Title: Manager

Acknowledgements

STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on _____, 2022, by Bryan W. Lee, Manager, of Lazy Oaks GP, LLC, general partner of Lazy Oaks Ranch, L.P., a Texas Limited Partnership, in such capacity, on behalf of said entities.

_____
Notary Public, State of Texas

STATE OF TEXAS §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on _____, 2022, by Bryan W. Lee, Manager, of LCSM Ph. 1-1, LLC, a Texas Limited Liability Company, in such capacity, on behalf of said entities.

_____
Notary Public, State of Texas

STATE OF TEXAS §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on _____, 2022, by Bryan W. Lee, Manager, of LCSM Ph. 1-2, LLC, a Texas Limited Liability Company, in such capacity, on behalf of said entities.

_____
Notary Public, State of Texas

STATE OF TEXAS §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on _____, 2022, by Bryan W. Lee, Manager, of LCSM Ph. 2, LLC, a Texas Limited Liability Company, in such capacity, on behalf of said entities.

_____
Notary Public, State of Texas

STATE OF TEXAS §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on _____, 2022, by Bryan W. Lee, Manager, of LCSM Ph. 3, LLC, a Texas Limited Liability Company, in such capacity, on behalf of said entities.

_____
Notary Public, State of Texas

STATE OF TEXAS §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on _____, 2022, by Bryan W. Lee, Manager, of LCSM Ph. 4, LLC, a Texas Limited Liability Company, in such capacity, on behalf of said entities.

_____
Notary Public, State of Texas

STATE OF TEXAS §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on _____, 2022, by Bryan W. Lee, Manager, of La Cima Commercial GP, LLC, general partner of La Cima Commercial, LP, a Texas Limited Partnership, in such capacity, on behalf of said entities.

_____
Notary Public, State of Texas

STATE OF TEXAS §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on _____, 2022, by Bryan W. Lee, Manager, of LCSM WW, LLC, a Texas Limited Liability Company, in such capacity, on behalf of said entities.

STATE OF TEXAS §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on _____, 2022, by Bryan W. Lee, Manager, of LCSM West GP, LLC, general partner of LCSM West, LP, a Texas Limited Partnership, in such capacity, on behalf of said entities.

_____
Notary Public, State of Texas

STATE OF TEXAS §

§

COUNTY OF HAYS §

This instrument was acknowledged before me on _____, 2022, by _____, City Manager of the City of San Marcos, in such capacity, on behalf of said entity.

_____
Notary Public, State of Texas

STATE OF TEXAS §

§

COUNTY OF HAYS §

This instrument was acknowledged before me on _____, 2022, by _____, _____ of Hays County, in such capacity, on behalf of said entity.

_____
Notary Public, State of Texas

Exhibit "A"

TRACT DESCRIPTIONS

TRACT "A": 649.592 ACRES, SAVE AND EXCEPT 5.000 ACRES, 5.000 ACRES AND 5.000 ACRES (634.592 ACRES TOTAL)

649.592 ACRES OF LAND SITUATED IN THE JOHN WILLIAMS SURVEY, ABSTRACT NO. 490, THE LYDIA GLASGOW SURVEY NO. 14, ABSTRACT NO. 188, AND THE JOHN MAXIMILIAN, JR. SURVEY NO. 15, ABSTRACT NO. 299, ALL OF HAYS COUNTY, TEXAS; SAID 649.592 ACRES DESCRIBED IN THE CORRECTION SPECIAL WARRANTY DEED WITH VENDOR'S LIEN FROM FROST BANK (FORMERLY KNOWN AS THE FROST NATIONAL BANK), TRUSTEE OF THE FREEMAN EDUCATIONAL FOUNDATION CREATED UNDER THE WILL OF JOSEPH FREEMAN, DECEASED, TO LAZY OAKS RANCH, LP, OF RECORD IN VOLUME 4877, PAGE 632, OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS; SAVE AND EXCEPT THREE (3) TRACTS OF LAND CONTAINING 5.000 ACRES EACH (SEE PAGES 2-5 FOR METES AND BOUNDS DESCRIPTIONS OF SAID SAVE AND EXCEPT TRACTS).

TRACT "B": 1388.17 ACRES, SAVE AND EXCEPT 23.823 ACRES (1364.347 ACRES TOTAL)

1388.17 ACRES OF LAND SITUATED IN THE WILLIAM SMITHSON SURVEY, ABSTRACT NO. 419 AND THE JOHN WILLIAMS SURVEY, ABSTRACT NO. 490, BOTH OF HAYS COUNTY, TEXAS; SAID 1388.17 ACRES DESCRIBED AS "TRACT ONE" IN THE SPECIAL WARRANTY DEED WITH VENDOR'S LIEN FROM BAT PARTNERS, LTD. TO LAZY OAKS RANCH, L.P., OF RECORD IN VOLUME 3772, PAGE 231, OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS.

SAVE AND EXCEPT

23.823 ACRES OF LAND SITUATED IN THE WILLIAM SMITHSON SURVEY, ABSTRACT NO. 419, HAYS COUNTY, TEXAS; SAID 23.823 ACRES DESCRIBED IN GENERAL WARRANTY DEED FROM LAZY OAKS RANCH, LP, TO SAN MARCOS BAPTIST ACADEMY FOUNDATION, INC., OF RECORD IN VOLUME 5038, PAGE 689, OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS.

TRACT "C": 8.73 ACRES, SAVE AND EXCEPT 2.467 ACRES (6.263 ACRES TOTAL)

8.73 ACRES OF LAND SITUATED IN THE JOHN WILLIAMS SURVEY, ABSTRACT NO. 490 AND THE JOHN MAXIMILIAN, JR. SURVEY NO. 15, ABSTRACT NO. 299, BOTH OF HAYS COUNTY, TEXAS; SAID 8.73 ACRES DESCRIBED AS "TRACT TWO" IN THE SPECIAL WARRANTY DEED WITH VENDOR'S LIEN FROM BAT PARTNERS, LTD. TO LAZY OAKS RANCH, L.P., OF RECORD IN VOLUME 3772, PAGE 231, OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS.

SAVE AND EXCEPT

2.467 ACRES OF LAND SITUATED IN THE JOHN MAXIMILIAN, JR. SURVEY NO. 15, ABSTRACT NO. 299 AND THE JOHN WILLIAMS SURVEY, ABSTRACT NO. 490, HAYS COUNTY, TEXAS; SAID 2.467 ACRES DESCRIBED IN GENERAL WARRANTY DEED FROM LAZY OAKS RANCH, LP, TO SAN MARCOS BAPTIST ACADEMY FOUNDATION, INC., OF RECORD IN VOLUME 5038, PAGE 689, OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS.

TRACT "D": 23.823 ACRES

23.823 ACRES OF LAND SITUATED IN THE JOHN WILLIAMS SURVEY, ABSTRACT NO. 490, THE PATRICK McGREAL SURVEY, ASBSTRAT NO. 308 AND THE WILLIAM SMITHSON SURVEY, ABSTRACT NO. 419, ALL OF HAYS COUNTY, TEXAS; SAID 23.823 ACRES DESCRIBED IN GENERAL WARRANTY DEED FROM SAN MARCOS BAPTIST ACADEMY FOUNDATION, INC. TO LAZY OAKS RANCH, L.P., OF RECORD IN VOLUME 5038, PAGE 698, OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS.

SAVE AND EXCEPT "TRACT 1": 5.000 ACRES

DESCRIPTION OF 5.000 ACRES OF LAND SITUATED IN THE JOHN WILLIAMS SURVEY, ABSTRACT NO. 490, HAYS COUNTY, TEXAS; BEING A PORTION OF THE REMAINDER OF THAT CALLED 659.9 ACRE TRACT (ONE HALF UNDIVIDED INTEREST), DESCRIBED IN THE SPECIAL WARRANTY DEED FROM HAROLD M. FREEMAN, A SINGLE MAN, TO FROST NATIONAL BANK, INDEPENDENT EXECUTOR & TRUSTEE UNDER THE WILL OF JOSEPH FREEMAN (DECEASED), OF RECORD IN VOLUME 359, PAGE 863, DEED RECORDS OF HAYS COUNTY, TEXAS; SAID 5.000 ACRES AS SURVEYED BY BOWMAN CONSULTING GROUP, LTD., AND SHOWN ON THE ACCOMPANYING SKETCH, BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a leaning 1/2-inch iron rod found at the south corner of a called 4.337 acre tract designated as "Tract One" and described in the Warranty Deed to the City of San Marcos of record in Volume 1080, Page 874, Official Public Records of Hays County, Texas, same being a re-entrant corner in the northwest line of the said 659.9 acre remainder tract, for an angle point in the northeast line and the **POINT OF BEGINNING** of the tract described herein;

THENCE through the interior of the said 659.9 acre remainder tract and with the east, southeast, southwest, and northwest lines of the tract described herein, the following four (4) courses and distances:

1. S 06°45'16" E, a distance of 189.51 feet to a calculated point for the east corner of the tract described herein,

2. S 42°59'13" W, a distance of 595.64 feet to a calculated point for the south corner of the tract described herein,

3. N 45°07'08" W, a distance of 316.85 feet to a calculated point in the east line of an electric transmission/distribution line easement of variable width described in the deed to the

Lower Colorado River Authority (LCRA), of record in Volume 242, Page 699, Deed Records of Hays County, Texas, for the west corner of the tract described herein, and

4. N 42°48'10" E, with the east line of the said LCRA easement, a distance of 708.83 feet to a calculated point in the northwest line of the said 659.9 acre remainder tract and the southwest line of the said 4.337 acre tract, being the northeast corner of the said LCRA easement, for the north corner of the tract described herein, from which a 1/2-inch iron rod found in the southeast line of that certain called 8.73 acre tract, designated as "Tract Two" and described in the Special Warranty Deed to Lazy Oaks Ranch, LP, of record in Volume 3772, Page 231, Official Public Records of Hays County, Texas, same being a north corner of the said 659.9 acre remainder tract and the north corner of the said LCRA easement, same being the west corner of the said 4.337 acre tract, bears N 46°37'22" W, a distance of 125.70 feet;

THENCE S 46°37'22" E, with the northeast line of the said 659.9 acre remainder tract, the southwest line of the said 4.337 acre tract, and the northeast line of the tract described herein, a distance of 174.33 feet to the **POINT OF BEGINNING** and containing 5.000 acres of land, more or less.

SAVE AND EXCEPT "TRACT 2": 5.000 ACRES

DESCRIPTION OF 5.000 ACRES OF LAND SITUATED IN THE JOHN WILLIAMS SURVEY, ABSTRACT NO. 490, HAYS COUNTY, TEXAS; BEING A PORTION OF THE REMAINDER OF THAT CALLED 659.9 ACRE TRACT (ONE HALF UNDIVIDED INTEREST), DESCRIBED IN THE SPECIAL WARRANTY DEED FROM HAROLD M. FREEMAN, A SINGLE MAN, TO FROST NATIONAL BANK, INDEPENDENT EXECUTOR & TRUSTEE UNDER THE WILL OF JOSEPH FREEMAN (DECEASED), OF RECORD IN VOLUME 359, PAGE 863, DEED RECORDS OF HAYS COUNTY, TEXAS; SAID 5.000 ACRES AS SURVEYED BY BOWMAN CONSULTING GROUP, LTD., AND SHOWN ON THE ACCOMPANYING SKETCH, BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING at a 6-inch cedar fence corner post found at an angle point in the southeast line of the said 659.9 acre remainder tract, same being an angle point in the southwest line of the remainder of that called 114 acre tract described as "Tract 1" in the Executor's Deed to Marla D. Sams and Marvin C. Wills, Jr., Co-Trustees of the Marvin C. Wills Family Trust, of record in Volume 3394, Page 424, Official Public Records of Hays County, Texas, for the most northerly corner of that called 311.74 acre tract described in the Warranty Deed to Claud Kern Wildenthal, of record in Volume 1385, Page 398, Official Public Records of Hays County, Texas, and from which an 8" dead cedar tree found at the most westerly corner of the said 114 acre remainder tract, being an angle point in the southeast line of the said 659.9 acre remainder tract, bears N 29°29'12" W, a distance of 59.58 feet;

THENCE with a portion of the southeast line of the said 659.9 acre remainder tract, also with the northwest line of the said 311.74 acre tract, the following four (4) courses and distances:

1. S 43°09'44" W, a distance of 155.92 feet to a 6-inch cedar fence post found for an angle point,

2. S 44°10'39" W, a distance of 216.46 feet to a 1/2-inch iron rod with plastic cap stamped "BCG" set for an angle point,

3. S 45°16'39" W, a distance of 951.78 feet to a 1/2-inch iron rod with plastic cap stamped "BCG" set for an angle point, and

4. S 45°32'23" W, a distance of 510.96 feet to a calculated point at the southwest corner of an electric transmission/distribution line easement of variable width described in the deed to the Lower Colorado River Authority (LCRA), of record in Volume 242, Page 699, Deed Records of Hays County, Texas, for the southeast corner and the **POINT OF BEGINNING** of the tract described herein;

THENCE S 45°32'23" W, continuing with a portion of the southeast line of the said 659.9 acre remainder tract and the northwest line of the said 311.74 acre tract, also with the southeast line of the tract described herein, a distance of 325.12 feet to a calculated point for the south corner of the tract described herein, from which a 6-inch cedar fence post found at an angle point in the southeast line of the said 659.9 acre remainder tract and the northwest line of the said 311.74 acre tract, bears S 45°32'23" W, a distance of 6348.00 feet;

THENCE leaving the northwest line of the said 311.74 acre tract and through the interior of the said 659.9 acre remainder tract, with the southwest, northwest and east lines of the tract described herein, the following three (3) courses and distances:

1. N 44°27'37" W, a distance of 400.00 feet to a calculated point for the west corner of the tract described herein,

2. N 45°32'23" E, a distance of 763.89 feet to a calculated point in the west line of the said LCRA easement, for the north corner of the tract described herein, and

3. S 03°11'10" W, with the west line of the said LCRA easement and the east line of the tract described herein, a distance of 593.73 feet to the **POINT OF BEGINNING** and containing 5.000 acres of land, more or less.

SAVE AND EXCEPT "TRACT 3": 5.000 ACRES

DESCRIPTION OF 5.000 ACRES OF LAND SITUATED IN THE JOHN WILLIAMS SURVEY, ABSTRACT NO. 490, HAYS COUNTY, TEXAS; BEING A PORTION OF THE REMAINDER OF THAT CALLED 659.9 ACRE TRACT (ONE HALF UNDIVIDED INTEREST), DESCRIBED IN THE SPECIAL WARRANTY DEED FROM HAROLD M. FREEMAN, A SINGLE MAN, TO FROST NATIONAL BANK, INDEPENDENT EXECUTOR & TRUSTEE UNDER THE WILL OF JOSEPH FREEMAN (DECEASED), OF RECORD IN VOLUME 359, PAGE 863, DEED RECORDS OF HAYS COUNTY, TEXAS; SAID 5.000 ACRES AS SURVEYED BY BOWMAN CONSULTING GROUP, LTD., AND SHOWN ON THE ACCOMPANYING SKETCH, BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING at a 3-1/2 inch metal fence corner post found near the top of a bluff and the approximate location of the north bank of Purgatory Creek, being the most southerly corner of the

said 659.9 acre remainder tract and the most westerly corner of that certain called 311.74 acre tract described in the Warranty Deed to Claud Kern Wildenthal, of record in Volume 1385, Page 398, Official Public Records of Hays County, Texas, same being an angle point in the northerly line of that certain called 521.55 acre tract described in the Special Warranty Deed to Dixie C. Lenz, Rita K. Steitle, and Medora C. Pratt, in equal undivided shares, of record in Volume 4517, Page 277, Official Public Records of Hays County, Texas;

THENCE with a portion of the southeast line of the said 659.9 acre remainder tract and the northwest line of the said 311.74 acre tract, the following three (3) courses and distances:

1. N 45°43'43" E, a distance of 606.75 feet to a 1/2-inch iron rod with plastic cap stamped "BCG" set for an angle point,

2. N 44°57'33" E, a distance of 408.78 feet to a 6-inch cedar fence corner post found at an angle point, and

3. N 45°32'23" E, a distance of 1466.74 feet to a calculated point for the south corner and the **POINT OF BEGINNING** of the tract described herein;

THENCE leaving the northwest line of the said 311.74 acre tract and through the interior of the said 659.9 acre remainder tract, with the southwest, northwest and east lines of the tract described herein, the following three (3) courses and distances:

1. N 44°27'37" W, a distance of 400.00 feet to a calculated point for the west corner of the tract described herein,

2. N 45°32'23" E, a distance of 678.61 feet to a calculated point in the west line of a 15 foot wide electric distribution line easement described in the deed to Pedernales Electric Cooperative, Inc., of record in Volume 401, Page 813, Deed Records of Hays County, Texas, for the north corner of the tract described herein, and

3. S 10°37'01" E, with the west line of the said Pedernales easement, a distance of 481.60 feet to a calculated point in the southeast line of the said 659.9 acre remainder tract and the northwest line of the said 311.74 acre tract, for the southeast corner of the tract described herein, from which a 1/2-inch iron rod with plastic cap stamped "BCG" set for an angle point in the southeast line of the said 659.9 acre remainder tract and an angle point in the northwest line of the said 311.74 acre tract, bears N 45°32'23" E, a distance of 5306.95 feet;

THENCE S 45°32'23" W, with a portion of the southeast line of the said 659.9 acre remainder tract and the northwest line of the said 311.74 acre tract, also with the southeast line of the tract described herein, a distance of 410.39 feet to the **POINT OF BEGINNING** and containing 5.000 acres of land, more or less.

BEARING BASIS: Texas Coordinate System, South Central Zone, NAD83, Grid.

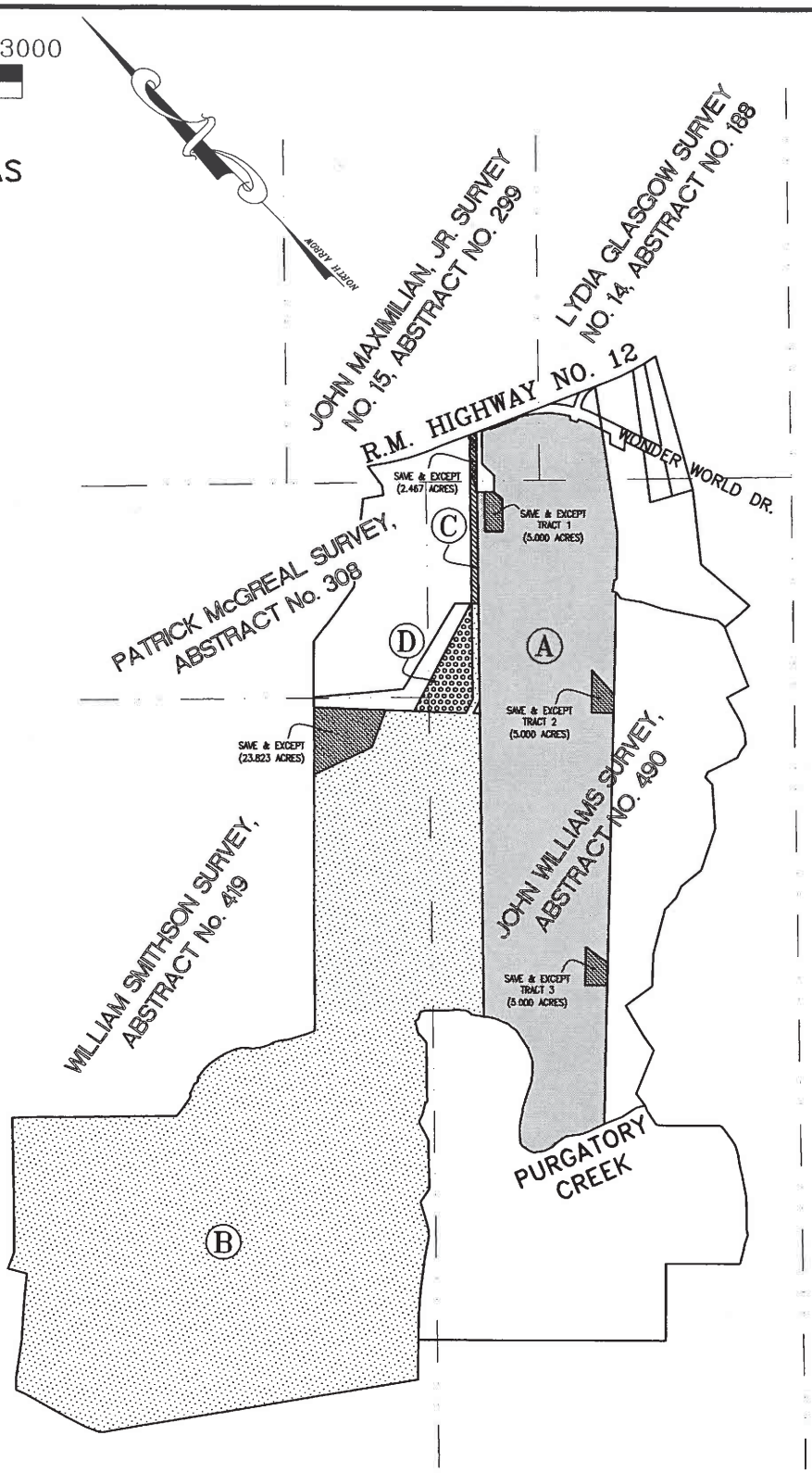
BOWMAN WORD FILE: FN1574R2(dz)

H:\Survey_FieldNotes\FN-1500s\FN1574R2(dz).doc

3000 0 3000

SCALE: 1"=3000'

HAYS COUNTY, TEXAS



Ⓐ

FROST BANK (FORMERLY KNOWN AS THE FROST NATIONAL BANK), TRUSTEE OF THE FREEMAN EDUCATIONAL FOUNDATION CREATED UNDER THE WILL OF JOSEPH FREEMAN, DECEASED
TO
LAZY OAKS RANCH, LP
649.592 ACRES
VOL. 4877, PG. 632
OFFICIAL PUBLIC RECORDS
OF HAYS COUNTY, TX
(SHOWN AS SOLID HATCH)

Ⓑ

BAT PARTNERS, LTD.
TO
LAZY OAKS RANCH, L.P.
TRACT ONE: 1388.17 ACRES
VOL. 3772, PG. 231
NOVEMBER 13, 2009
OFFICIAL PUBLIC RECORDS
OF HAYS COUNTY, TX
(SHOWN AS DOT HATCH)

Ⓒ

BAT PARTNERS, LTD.
TO
LAZY OAKS RANCH, L.P.
TRACT TWO: 8.73 ACRES
VOL. 3772, PG. 231
NOVEMBER 13, 2009
OFFICIAL PUBLIC RECORDS
OF HAYS COUNTY, TX
(SHOWN AS SLANT HATCH)

Ⓓ

SAN MARCOS BAPTIST ACADEMY FOUNDATION, INC.
TO
LAZY OAKS RANCH, L.P.
23.823 ACRES
VOL. 5038, PG. 698
OCTOBER 06, 2014
OFFICIAL PUBLIC RECORDS
OF HAYS COUNTY, TX
(SHOWN AS HEX HATCH)

Bowman CONSULTING

Bowman Consulting Group, Ltd.
3101 Bee Cave Road, Suite 100, Austin, Texas 78746
Phone: (512) 327-1180 Fax: (512) 327-4062
www.bowmanconsulting.com © Bowman Consulting Group, Ltd.
TBPE Firm No. F-2986 | TBPLS Firm No. 101206-00

EXHIBIT TO ACCOMPANY
TRACT DESCRIPTIONS
IN FN1574R2

FILE: P:\005956 - Lazy Oaks Ranch\005956-01-002 (SUR) - Freeman Tract\Survey\Working\Exhibits\5956-01-002_LAZY OAKS-FREEMAN.dwg
DATE: Mar 28,2018-3:22pm

Exhibit "A-1"

FIELD NOTES DESCRIPTION - TRACT 2 1.150 ACRES

DESCRIPTION OF 1.150 ACRES OF LAND SITUATED IN THE LYDIA GLASGOW SURVEY NO. 14, ABSTRACT NO. 188, HAYS COUNTY, TEXAS; BEING A PORTION OF THE REMAINDER OF THAT CALLED 659.9 ACRE TRACT (ONE HALF UNDIVIDED INTEREST), DESCRIBED IN THE SPECIAL WARRANTY DEED FROM HAROLD M. FREEMAN, A SINGLE MAN, TO FROST NATIONAL BANK, INDEPENDENT EXECUTOR & TRUSTEE UNDER THE WILL OF JOSEPH FREEMAN (DECEASED), OF RECORD IN VOLUME 359, PAGE 863, DEED RECORDS OF HAYS COUNTY, TEXAS; SAID 1.150 ACRES AS SURVEYED BY BOWMAN CONSULTING GROUP, LTD., BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING at a 1/2 inch iron rod found in the interior of R.M. Highway No. 12 (R.O.W. varies), being the common north corner of that called 4.337 acre tract described as "Tract One" in the Warranty Deed to the City of San Marcos, of record in Volume 1080, Page 874, Official Public Records of Hays County, Texas, and that called 0.464 acre tract described as "Parcel 65" in Exhibit "C" in the Special Warranty Deed to the County of Hays, of record in Volume 4264, Page 511, Official Public Records of Hays County, Texas, being the northwest corner of that called 0.14 acre tract described as "Easement Tract IV" in the Easement Agreement between The Frost National Bank, Trustee of the Joseph Freeman Testamentary Trust, and the City of San Marcos, of record in Volume 1239, Page 104, Official Public Records of Hays County, Texas;

THENCE S 66°45'57" E, through the interior of said R.M. Highway No. 12, with the north line of said 0.464 acre tract and said 0.14 acre easement tract, also with a portion of the north lines of said 6.4500 acre tract and that called 0.611 acre tract described as "Easement Tract III" in said Easement Agreement of record in Volume 1239, Page 104, passing at a distance of 451.60 feet a TXDOT type II monument found for the common north corner of said 0.464 acre tract and that called 6.4500 acre tract of land described in the Special Warranty Deed to the City of San Marcos, of record in Volume 3100, Page 712, Official Public Records of Hays County, Texas, continuing for a total distance of 1336.77 feet to a 1/2 inch iron rod with a 1-1/2 inch aluminum cap stamped "Texas Dept of Tran" found at the intersection of the south right-of-way line of said R.M. Highway No. 12 with the east right-of-way line of said Wonder World Drive, for the **POINT OF BEGINNING**, being an angle point in the northerly line of said 659.9 acre remainder tract and also an angle point in the northerly line of said 6.4500 acre tract, for the northwest corner of the tract described herein;

THENCE S 66°45'57" E, continuing with the north line of said 0.611 acre easement tract and also with the south right-of-way line of said R.M. Highway No. 12 and a portion of the north line of said 659.9 acre remainder tract, with the north line of the tract described herein, a distance of 544.90 feet to a 1/2 inch iron rod with a 1-1/2 inch aluminum cap stamped "Texas Dept of Tran" found at the intersection of the south right-of-way line of said R.M. Highway No. 12 with the north right-of-way line of Old Ranch Road 12 (R.O.W. varies), being an angle point in the northerly lines of said 659.9 acre remainder tract and said 6.4500 acre tract, for the northeast corner of the tract described herein;

THENCE leaving the south right-of-way line of said R.M. Highway No. 12 and the north line of said 0.611 acre easement tract, with the curving north right-of-way line of said Old Ranch Road 12, also with the curving northerly interior lines of said 659.9 acre remainder tract and said 6.4500 acre tract, for the east line of the tract described herein, the following three (3) courses and distances:

1. with the arc of a curve to the left, having a radius of 560.00 feet, an arc length of 174.70 feet, and a chord which bears S 68°05'29" W, a distance of 173.99 feet to a 1/2 inch iron rod with a 1-1/2 inch aluminum cap stamped "Texas Dept of Tran" found,

2. S 58°43'50" W, a distance of 47.47 feet to a TXDOT type II monument found, and

3. S 75°23'37" W, a distance of 54.82 feet to a TXDOT type II monument found at the intersection of the north right-of-way line of said Old Ranch Road 12 with the east right-of-way of said Wonder World Drive, being an angle point in the interior lines of said 659.9 acre remainder tract and said 6.4500 acre tract, for the most southerly corner of the tract described herein;

THENCE leaving the north right-of-way line of said Old Ranch Road 12 and with the east right-of-way line of said Wonder World Drive, also with the interior lines of said 659.9 acre remainder tract and said 6.4500 acre tract, with the west line of the tract described herein, with the arc of a curve to the left, having a radius of 1997.36 feet, an arc length of 402.79 feet, and a chord which bears N 37°39'28" W, a distance of 402.11 feet to the **POINT OF BEGINNING** and containing 1.150 acres of land, more or less.

BEARING BASIS: Texas Coordinate System, South Central Zone, NAD83, Grid.

BOWMAN WORD FILE: FN1548B(clw)

THE STATE OF TEXAS §
§ KNOW ALL MEN BY THESE PRESENTS
COUNTY OF TRAVIS §

That I, Cara L. Williams, a Registered Professional Land Surveyor, do hereby certify that the above description and the accompanying sketch is true and correct to the best of my knowledge and belief and that the property described herein was determined by a series of surveys made on the ground during the months of December 2013 and January 2014, under my direction and supervision.

WITNESS MY HAND AND SEAL at Austin, Travis County, Texas, on this 5TH day of February 2014, A.D.

Bowman Consulting Group, Ltd.
Austin, Texas 78746

Cara L. Williams
Registered Professional Land Surveyor
No. 6336 – State of Texas

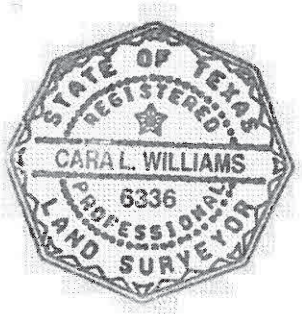


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Exhibit "A-2"

2.303 Acres
Lydia Glasgow Survey No. 14, A-188
Hays County, Texas

Job No. 5956-01-002
FN1548C(clw)

FIELD NOTES DESCRIPTION - TRACT 3 2.303 ACRES

DESCRIPTION OF 2.303 ACRES OF LAND SITUATED IN THE LYDIA GLASGOW SURVEY NO. 14, ABSTRACT NO. 188, HAYS COUNTY, TEXAS; BEING A PORTION OF THE REMAINDER OF THAT CALLED 659.9 ACRE TRACT (ONE HALF UNDIVIDED INTEREST), DESCRIBED IN THE SPECIAL WARRANTY DEED FROM HAROLD M. FREEMAN, A SINGLE MAN, TO FROST NATIONAL BANK, INDEPENDENT EXECUTOR & TRUSTEE UNDER THE WILL OF JOSEPH FREEMAN (DECEASED), OF RECORD IN VOLUME 359, PAGE 863, DEED RECORDS OF HAYS COUNTY, TEXAS; SAID 653.045 ACRES BEING COMPRISED OF TRACT I (649.592 ACRES), TRACT 2 (1.150 ACRES) AND TRACT 3 (2.303 ACRES), AS SURVEYED BY BOWMAN CONSULTING GROUP, LTD., BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2 inch iron rod with a 1-1/2 inch aluminum cap stamped "Texas Dept of Tran" found in the east right-of-way line of said Wonder World Drive, being an angle point in the northerly line of said 659.9 acre remainder tract and an angle point in the easterly line of that called 6.4500 acre tract of land described in the Special Warranty Deed to the City of San Marcos, of record in Volume 3100, Page 712, Official Public Records of Hays County, Texas, same being the most northerly corner of that called 6.8059 acre tract of land described in the Special Warranty Deed to the City of San Marcos, of record in Volume 3197, Page 401, Official Public Records of Hays County, Texas, same being an angle point in the westerly line of that called 114 acre tract described as "Tract 1" in the Executor's Deed to Marla D. Sams & Marvin C. Wills, Jr., Co-Trustees of the Marvin C. Wills Family Trust, of record in Volume 3394, Page 424, Official Public Records of Hays County, Texas, for the most southerly corner and **POINT OF BEGINNING** of the tract described herein, from which a 1/2 inch iron rod with a 1-1/2 inch aluminum cap stamped "Texas Dept of Tran" found in the west right-of-way line of said Wonder World Drive, being an angle point in the northerly line of said 659.9 acre remainder tract, same being the most southerly corner of said 6.4500 acre tract, same being the northwest corner of said 6.8059 acre tract, bears, S 35°27'05" W, a distance of 243.79 feet;

THENCE with the east right-of-way line of said Wonder World Drive, also with the interior lines of said 659.9 acre remainder tract and said 6.4500 acre tract, with the west line of the tract described herein, the following two (2) courses and distances:

1. N 19°34'42" W, a distance of 83.03 feet to a TXDOT type II monument found at the beginning of a curve to the left,

2. with the arc of said curve to the left, having a radius of 2009.86 feet, an arc length of 276.89 feet, and a chord which bears N 23°34'40" W, a distance of 276.67 feet to a 1/2 inch iron rod with plastic cap stamped "BCG" set at the intersection of the east right-of-way line of said Wonder World Drive with the south right-of-way line of said Old Ranch Road 12, being an angle point in the interior lines of said 659.9 acre remainder tract and said 6.4500 acre tract, for the most westerly corner of the tract described herein;

THENCE leaving the east right-of-way line of said Wonder World Drive and with the south right-of-way line of said Old Ranch Road 12, also with the interior lines of said 659.9 acre remainder tract and said 6.4500 acre tract, with the north line of the tract described herein, the following three (3) courses and distances:

1. N 37°48'08" E, a distance of 46.59 feet to a 1/2 inch iron rod with a 1-1/2 inch aluminum cap stamped "Texas Dept of Tran" found,

2. N 58°50'07" E, a distance of 47.11 feet to a 1/2 inch iron rod with a 1-1/2 inch aluminum cap stamped "Texas Dept of Tran" found at the beginning of a curve to the right, and

3. with the arc of said curve to the right, having a radius of 440.00 feet, an arc length of 390.22 feet, and a chord which bears N 84°25'07" E, a distance of 377.56 feet to a painted hole found in concrete being the most easterly corner of said 6.4500 acre tract and an angle point in the easterly

line of said 659.9 acre remainder tract, also being in the west line of said 114 acre remainder tract, for the most easterly corner of the tract described herein,

THENCE S 35°28'03" W, with a portion of the east line of said 659.9 acre remainder tract and also with a portion of the west line of said 114 acre remainder tract, with the east line of the tract described herein, a distance of 527.61 feet to the **POINT OF BEGINNING** and containing 2.303 acres of land, more or less.

BEARING BASIS: Texas Coordinate System, South Central Zone, NAD83, Grid.

BOWMAN WORD FILE: FN1548C(clw)

THE STATE OF TEXAS §
§ KNOW ALL MEN BY THESE PRESENTS
COUNTY OF TRAVIS §

That I, Cara L. Williams, a Registered Professional Land Surveyor, do hereby certify that the above description and the accompanying sketch is true and correct to the best of my knowledge and belief and that the property described herein was determined by a series of surveys made on the ground during the months of December 2013 and January 2014, under my direction and supervision.

WITNESS MY HAND AND SEAL at Austin, Travis County, Texas, on this 5TH day of January 2014, A.D.

Bowman Consulting Group, Ltd.
Austin, Texas 78746

Cara L. Williams
Registered Professional Land Surveyor
No. 6336 – State of Texas

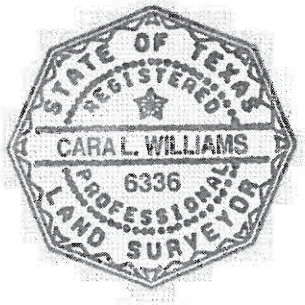

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Exhibit "A-3"

DESCRIPTION OF 390.52 ACRES, MORE OR LESS, OF LAND AREA IN THE WILLIAM BURKE SURVEY, ABSTRACT NO. 68, HAYS COUNTY, TEXAS, BEING A PORTION OF THAT TRACT DESCRIBED AS 515.964 ACRES IN A DEED FROM V & H ROBINSON RANCHES, LTD. TO W. L. WOOTAN ET UX DATED DECEMBER 9, 1998 AND RECORDED IN HAYS COUNTY DOCUMENT NO. 9920197 OF THE HAYS COUNTY OFFICIAL PUBLIC RECORDS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at an 8" Cedar fence corner post in the northeast line of the Jonathan Scott Survey, Abstract No. 430 for the approximate west corner of the William Burke Survey, Abstract No. 68 and for the south corner of the G. W. A. Colton Survey, Abstract No. 95 and for the northerly-west corner of the Wootan tract, and being in the northeast line of that 1422.46 acre tract described in a deed from Milton H. West et ux to MHW Operations Ltd. dated December 28, 2000 and recorded in Volume 1754, Page 588 of the Hays County Official Public Records, and being the south corner of the Bridlewood Ranches, Section 2, a subdivision recorded in Volume 11, Page 69 of the Hays County Plat Records;

THENCE leaving the Scott Survey, the MHW Operations 1422.46 acre tract, and the **PLACE OF BEGINNING** as shown on that plat numbered 27873-17-2-d dated March 22, 2017 as prepared for Wootan Family Estate by Byrn & Associates, Inc. of San Marcos, Texas with the common northwest line of the Burke Survey and the Wootan tract and southeast line of the Colton Survey and Bridlewood Ranches, Section 2, as fenced and used upon the ground, the following six courses:

1. **N 47° 38' 55" E 424.80 feet** to an angle point,
2. **N 46° 40' 52" E 282.88 feet** to a 6" Cedar post for an angle point,
3. **N 44° 51' 43" E 557.74 feet** to an 8" Cedar post for an angle point,
4. **N 46° 16' 27" E 548.58 feet** to a 4" Cedar post for an angle point,
5. **N 45° 46' 36" E 604.71 feet** to a 4" Cedar post for an angle point, and
6. **N 45°18' 03" E 260.56 feet** to a 1/2" iron rod found with a plastic cap stamped "B&G" for the north corner of this tract and the west corner of that 1388.17 acre tract described in a deed from BAT Partners, Ltd. to Lazy Oaks Ranch, LP dated November 13, 2009 and recorded in Volume 3772, Page 231 of the Hays County Official Public Records;

THENCE leaving the Colton Survey and Bridlewood Ranch tract and entering the Burke Survey with the common northeast line of the Wootan tract and southwest line of the Lazy Oaks Ranch tract as fenced, the following five courses:

1. **S 21° 03' 09" E 169.44 feet** to a triple 5" Elm tree for an angle point,
2. **S 15° 51' 32" E 479.74 feet** to a 10" Live Oak tree for an angle point,
3. **S 15° 05' 56" E 382.38 feet** to a 3" Cedar post for an angle point,
4. **S 17° 43' 48"E 393.12 feet** to an 8" Live Oak tree for an angle point, and
5. **S 24°52' 31" E 288.56 feet** to a 1/2" iron rod set for an angle point;

THENCE leaving fence, and continuing with said common line **S 54° 00' 57" E 5744.26 feet** to a 1/2" iron rod set in fence in the southeast line of the Burke Survey for the east corner of the Wootan tract and south corner of the Lazy Oaks Ranch tract and being in the northwest line of the John Williams Survey, Abstract No. 490 and that 100 acre tract described in a deed from Rita P. Steitle to Rita P. Steitle et vir dated May 27, 2015 and recorded in Volume 5249, Page 252 of the Hays County Official Public Records;

THENCE with the common southeast line of the Burke Survey and the Wootan tract and northwest line of the Williams Survey and Steitle tract, as fenced and agreed to in a boundary line agreement between J. H. Robinson and E. E. Posey dated May 24, 1942 and recorded in Volume 124, Page 496 of the Hays County Deed Records, the following four courses:

1. **S 44° 50' 55" W 648.35 feet** to a 4" Cedar post for an angle point,
2. **S 45° 15' 06" W 472.53 feet** to a 12" Live Oak tree for an angle point,
3. **S 48°27' 47" W 112.04 feet** to a 20" Live Oak tree for an angle point, and
4. **S 41° 06' 56" W 95.25 feet** to an 8" Cedar corner post for the west corner of the Williams Survey and Steitle tract and the north corner of the Isaac Lower Survey, Abstract N. 287 and that 248.18 acre tract - Exhibit A - described in a deed from George R. Williams et al to George R. Williams et al dated July 26, 2012 and recorded in Volume 4402, Page 461 of the Hays County Official Public Records;

THENCE leaving the Steitle tract with the common southeast line of the Burke Survey and the Wootan tract and northwest line of the Lowe Survey and the Williams 248.18 acre tract, as fenced and used, the following nine courses:

1. **S 45° 23' 08" W 792.32 feet** to a 12" Cedar tree for an angle point,

2. **S 45° 44' 41" W 239.94 feet** to a 24" Live Oak tree for an angle point,

3. **S 61° 50' 25" W 145.68 feet** to an 8" Live Oak tree for an angle point,

4. **S 69° 03' 13" W 37.17 feet** to a 16" Cedar tree for an angle point,

5. **S 75° 18' 47" W 41.96 feet** to a 10" Live Oak tree for an angle point,

6. **S 64° 57' 31" W 41.05 feet** to a 14" Live Oak tree for an angle point,

7. **S 54° 42' 38" W 43.53 feet** to a 16" Live Oak tree for an angle point,

8. **S 47° 50' 55" W 38.51 feet** to an 8" Live Oak tree for an angle point, and

9. **S 43° 42' 13" W 143.87 feet** to a 6" Cedar corner post for an interior corner in the east line of the Wootan tract and west corner of the Williams 248.18 acre tract;

THENCE crossing the Wootan tract **S 44° 24' 40" W 26.23 feet** to an 8" creosote post for an interior corner in the west line of the Wootan tract and the east corner of the aforereferenced MHW Operations 1422.46 acre tract, as fenced and used upon the ground, and being the south corner of this tract;

THENCE with the common southwest line of the Wootan tract and northeast line of the MHW Operations tract, as fenced and used upon the ground, the following two courses:

1. **N 25° 25' 07" W 23.14 feet** to an 8" creosote fence post and

2. **N 44° 38' 00" W (being the Bearing Basis for this description) 7118.29 feet** to the **PLACE OF BEGINNING.** There are contained within these metes and bounds 390.52 acres, more or less, of land area as prepared from public records and a survey made on the ground on during March, 2017 by Byrn & Associates, Inc. of San Marcos. All 1/2" iron rods set are capped with a plastic cap stamped "Byrn Survey".

David C. Williamson, R.P.L.S. #4190

STATE OF TEXAS
REGISTERED
DAVID C. WILLIAMSON
4190
PROFESSIONAL
LAND SURVEYOR

Client: Wootan Family Estate
Date: April 4, 2017
Survey: Burke, William, A- 68
County: Hays, Texas
Job No: 27373-17
FND 390.52 ac

Exhibit “A – 4”

8.661 Acre Tract – 2 Pages

14.062 Acre Tract – 2 Pages

94.769 Acre Tract – 4 Pages

6.891 Acre Tract – 2 Pages

FIELD NOTES DESCRIPTION

DESCRIPTION OF 8.661 ACRES (377,274 SQUARE FEET) OF LAND SITUATED IN THE JOHN WILLIAMS SURVEY, ABSTRACT No. 471, THE JOHN WILLIAMS SURVEY, ABSTRACT No. 490 AND THE LYDIA GLASGOW SURVEY No. 14, ABSTRACT No. 188, HAYS COUNTY, TEXAS; BEING A PORTION OF TRACT 1: {b} 17.45 ACRES CONVEYED TO MARCIE B. WILLS, ET. AL., RECORDED IN TRUST DISTRIBUTION DEED INSTRUMENT No. 16043487, OFFICIAL PUBLIC RECORDS OF HAYS COUNTY TEXAS (O.P.R.H.C.TX.); SAID 8.661 ACRES OF LAND AS SURVEYED BY BOWMAN CONSULTING GROUP, LTD. AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a ½-inch iron rod with a 1-½-inch aluminum cap stamped TX.D.O.T. found on the northeasterly right-of-way line of Wonder World Drive (right-of-way varies), the southeasterly corner of the herein described tract, and being a common corner to Partition Deed Tract 1: 17.45 acres conveyed to Marion H. Wills, recorded in Volume 2530 at page 720, O.P.R.H.C.TX. and to called 6.8059 acres conveyed to the City of San Marcos, recorded in Volume 3197 at Page 401, O.P.R.H.C.TX., from said beginning point a ½-inch iron rod with a 1-½-inch aluminum cap stamped TX.D.O.T., found on the southwesterly right-of-way line of said drive and at the southwesterly corner of said 6.8059 acres, bears South 32 degrees 28 minutes 22 seconds West, a distance of 253.66 feet;

THENCE, leaving said Partition Deed Tract 1: 17.45 acres and continuing with said 6.8059 acres along said northeasterly right-of-way line North 19 degrees 38 minutes 00 seconds West, a distance of 403.95 feet, to a ½-inch iron rod with a plastic cap stamped “BCG” set at the southwesterly corner of the herein described tract and being a common corner to said 6.8059 acres and a 14.062 acre partition (Tract 1: North Portion) of Tract 1: {a} 114 acres conveyed to Marice B. Wills, Et. Al., recorded in Trust Distribution Deed Instrument No. 16043487, O.P.R.H.C.TX., from which a ½-inch iron rod with a plastic cap stamped “ JC EVANS” found bears South 18 degrees 57 minutes 09 seconds West, a distance of 2.17 feet;

THENCE, leaving said 6.8059 acres and said northeasterly right-of-way line and continuing along the easterly line of said 14.062 acre partition North 36 degrees 40 minutes 50 seconds East, a distance of 1210.09 feet, to a ½-inch iron rod found on the southern right-of-way line of Old Ranch Road 12 (right-of-way width varies), the northwesterly corner of the herein described tract, and being a common corner to said 14.062 acre partition, from which a TXDOT Type I concrete monument found on said southern right-of-way line bears North 70 degrees 28 minutes 09 seconds West, a distance of 481.24 feet;

THENCE, leaving said 14.062 acre partition and continuing along said southern right-of-way line 239.63 feet along the arc of a curve turning to the left, having a radius of 3869.72 feet and a chord that bears South 75 degrees 41 minutes 36 seconds East, a distance of 239.59 feet, to a ½-inch iron rod with a 1-½-inch aluminum cap stamped “CMR/PROTECH SURVEYING RPLS 4288” found at the northeasterly corner of the herein described tract and being a common corner to aforesaid Partition Deed Tract 1: 17.45 acres, from which a ½-inch iron rod, found, on said southern right-of-way line, bears South 79 degrees 13 minutes 57 seconds East, a distance of 239.76 feet;

THENCE, leaving said southern right-of-way line and continuing along the westerly line of aforesaid Partition Deed Tract 1: 17.45 acres South 32 degrees 23 minutes 07 seconds West, a distance of 1529.64 feet, to the **POINT OF BEGINNING** and containing 8.661 acres (377,274 square feet) of land, more or less.

BEARING BASIS: Texas Coordinate System, NAD 83, South Central Zone, Grid.

BOWMAN WORD FILE: FN2358(sf)

THE STATE OF TEXAS §
§ KNOW ALL MEN BY THESE PRESENTS
COUNTY OF TRAVIS §

That I, Terry L. Rowe, a Registered Professional Land Surveyor, do hereby certify that the above description is true and correct to the best of my knowledge and belief and that the property described herein was determined a survey made on the ground in December 2019, under my direction and supervision.

WITNESS MY HAND AND SEAL at Austin, Travis County, Texas, on this ___04___ day of February 2020 A.D.

Bowman Consulting Group, Ltd.
Austin, Texas 78746

Terry L. Rowe
Registered Professional Land Surveyor
No. 5493 – State of Texas

FIELD NOTES DESCRIPTION

DESCRIPTION OF 14.062 ACRES (312,548 SQUARE FEET) OF LAND SITUATED IN THE JOHN WILLIAMS SURVEY, ABSTRACT No. 490 AND THE LYDIA GLASGOW SURVEY No. 14, ABSTRACT No. 188, HAYS COUNTY, TEXAS; BEING A PORTION OF TRACT 1: {a} 114 ACRES CONVEYED TO MARCIE B. WILLS, ET. AL., RECORDED IN TRUST DISTRIBUTION DEED INSTRUMENT No. 16043487, OFFICIAL PUBLIC RECORDS OF HAYS COUNTY TEXAS (O.P.R.H.C.TX.); SAID 14.062 ACRES OF LAND AS SURVEYED BY BOWMAN CONSULTING GROUP, LTD. AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a ½-inch iron rod with a 1-½-inch aluminum cap stamped TX.D.O.T. found on the northeasterly right-of-way line of Wonder World Drive (right-of-way width varies), at the southwesterly corner of the herein described tract and being a common corner to a 2.303 acre tract conveyed to Lazy Oaks Ranch, LP, recorded in Volume 4931 at page 450, designated as Tract 2, O.P.R.H.C.TX. and to a called 6.8059 acres conveyed to the City of San Marcos, recorded in Volume 3197 at Page 401, O.P.R.H.C.TX., from which a TXDOT Type I concrete monument, found, on said northeasterly right-of-way line, bears North 19 degrees 34 minutes 44 seconds West, a distance of 82.92 feet; in addition, from said beginning point a ½-inch iron rod with a 1-½-inch aluminum cap stamped TX.D.O.T. found on the southwesterly right-of-way line of said drive and at a southwesterly corner of said 6.8059 acres, bears South 35 degrees 26 minutes 58 seconds West, a distance of 243.80 feet;

THENCE, leaving said northeasterly right-of-way and said 6.8059 acres and continuing along the easterly line of said 2.303 acre tract North 35 degrees 29 minutes 39 seconds East, a distance of 527.62 feet, to a calculated point at the northeasterly corner of said 2.303 acre tract and a corner of the herein described tract;

THENCE, continuing along said easterly line North 35 degrees 29 minutes 39 seconds East, a distance of 11.66 feet to a calculated point on the southern right-of-way line of Old Ranch Road 12 (right-of-way width varies) at the northwesterly corner of the herein described tract;

THENCE, leaving said easterly line and continuing along said southern right-of-way line for the following two (2) courses and distances;

1.) South 66 degrees 39 minutes 22 seconds East, a distance of 261.53 feet to a TXDOT Type I concrete monument found at a corner of the herein described tract;

2.) 481.55 feet along the arc of a curve turning to the left, having a radius of 3869.72 feet and a chord that bears South 70 degrees 28 minutes 09 seconds East, a distance of 481.24 feet, to a ½-inch iron rod found at the northeasterly corner of the herein described tract and at the northwesterly corner to an 8.661 acre partition (Tract 2: North Portion) of Tract 1: {b} 17.45 acres conveyed to Marice B. Wills, Et. Al., recorded in Trust Distribution Deed Instrument No. 16043487, O.P.R.H.C.TX., from which a ½-inch iron rod with a 1-½-inch aluminum cap stamped “CMR/PROTECH SURVEYING RPLS 4288”, found on said southern right-of-way line, bears South 79 degrees 41 minutes 36 seconds East, a distance of 239.59 feet;

THENCE, leaving said southern right-of-way and continuing along the westerly line of said 8.661 acre partition South 36 degrees 40 minutes 50 seconds West, a distance of 1210.09 feet, to a ½-inch iron rod with a plastic cap stamped “BCG” set on the northeasterly right-of-way line of Wonder World Drive (right-of-way width varies), at the southeasterly corner of the herein described tract and being common corner to said 8.661 acre partition and to aforesaid 6.8059 acres, from which a ½-inch iron rod with a plastic cap stamped “ JC EVANS” found bears South 18 degrees 57 minutes 09 seconds West, a distance of 2.17 feet; in addition, from said corner a ½-inch iron rod with a 1-½-inch aluminum cap stamped TX.D.O.T., found on said northeasterly right-of-way line at the common corner of said 8.661 acre partition and said 6.8059 acres, bears South 19 degrees 38 minutes 00 seconds West, a distance of 403.95 feet;

THENCE, leaving said westerly line and continuing with said 6.8059 acres along said northeasterly right-of-way line North 19 degrees 38 minutes 00 seconds West, a distance of 845.05 feet to the **POINT OF BEGINNING** and containing 14.062 acres (312,548 square feet) of land, more or less.

BEARING BASIS: Texas Coordinate System, NAD 83, South Central Zone, Grid.

BOWMAN WORD FILE: FN2359

THE STATE OF TEXAS §
§ KNOW ALL MEN BY THESE PRESENTS
COUNTY OF TRAVIS §

That I, Terry L. Rowe, a Registered Professional Land Surveyor, do hereby certify that the above description is true and correct to the best of my knowledge and belief and that the property described herein was determined a survey made on the ground in December 2019, under my direction and supervision.

WITNESS MY HAND AND SEAL at Austin, Travis County, Texas, on this 04 day of February 2020 A.D.

Bowman Consulting Group, Ltd.
Austin, Texas 78746

Terry L. Rowe
Registered Professional Land Surveyor
No. 5493 – State of Texas

FIELD NOTES DESCRIPTION

DESCRIPTION OF 94.769 ACRES (4,128,139 SQUARE FEET) OF LAND SITUATED IN THE JOHN WILLIAMS SURVEY, ABSTRACT No. 471, THE JOHN WILLIAMS SURVEY, ABSTRACT No. 490 AND THE LYDIA GLASGOW SURVEY No. 14, ABSTRACT No. 188, HAYS COUNTY, TEXAS; BEING A PORTION OF TRACT 1: {a} 114 ACRES CONVEYED TO MARCIE B. WILLS, ET. AL., RECORDED IN TRUST DISTRIBUTION DEED INSTRUMENT No. 16043487, OFFICIAL PUBLIC RECORDS OF HAYS COUNTY TEXAS (O.P.R.H.C.TX.); SAID 94.769 ACRES OF LAND AS SURVEYED BY BOWMAN CONSULTING GROUP, LTD. AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a ½-inch iron rod with a 1-½-inch aluminum cap stamped TX.D.O.T. found on the southwesterly right-of-way line of Wonder World Drive (right-of-way width varies), at the most northwesterly corner of the herein described tract, and being common corner to a called 34.368 acres tract conveyed to LA CIMA Commercial, LP, recorded in Assumption General Warranty Deed Instrument No. 17016156, O.P.R.H.C.TX. and to called 6.8059 acres conveyed to the City of San Marcos, recorded in Volume 3197 at Page 401, O.P.R.H.C.TX., from which a TXDOT Type I concrete monument, found on said southwesterly right-of-way line, bears North 19 degrees 38 minutes 27 seconds West, a distance of 222.43 feet; in addition, from said beginning point a ½-inch iron rod with a 1-½-inch aluminum cap stamped TX.D.O.TX., found on the northeasterly right-of-way line of said drive and at the northeasterly corner said 6.8059 acres, bears North 35 degrees 26 minutes 58 seconds East, a distance of 243.80 feet;

THENCE, leaving said 34.368 acres and continuing with said 6.8059 acres along said southwesterly right-of-way line for the following five (5) courses and distances:

1.) South 19 degrees 37 minutes 17 seconds East, a distance of 167.08 feet, to a calculated point at the common corner of the herein described tract and said 6.8059 acres;

2.) South 43 degrees 01 minutes 57 seconds West, a distance of 174.50 feet, to a calculated point at the common corner of the herein described tract and said 6.8059 acres;

3.) South 19 degrees 37 minutes 17 seconds East, a distance of 291.06 feet, to a ½-inch iron rod found at the common corner of the herein described tract and said 6.8059 acres;

4.) North 43 degrees 01 minutes 57 seconds East, a distance of 174.50 feet, to a calculated point at the common corner of the herein described tract and said 6.8059 acres;

THENCE, South 19 degrees 37 minutes 17 seconds East, a distance of 380.73 feet, continuing with said 6.8059 acres along said southwesterly right-of-way line to a calculated point at the common corner of the herein described tract, said 6.8059 acres and a 6.891 acre partition (Tract 2: South Portion) of Tract 1: {b} 17.45-acres conveyed to Marice B. Wills, Et. Al., recorded in Trust Distribution Deed Instrument No. 16043487, O.P.R.H.C.TX., from which a ½-inch iron rod with a 1-½-inch aluminum cap stamped TX.D.O.T. found on said southwesterly right-of-way line at the common corner of said 6.891 acre partition and said 6.8059 acers, bears South 19 degrees 37 minutes 17 seconds East, a distance of 426.38 feet;

THENCE, South 36 degrees 40 minutes 50 seconds West, a distance of 948.05 feet, leaving said southwesterly right-of-way line and said 6.8059 acres and continuing along the westerly line of said 6.981 acre partition to a ½-inch iron rod found at the southwesterly corner of said 6.891 acre partition and at a corner to the herein described tract;

THENCE, South 62 degrees 23 minutes 09 seconds East, a distance of 408.27 feet, continuing along said 6.891 acre partition to a ½-inch iron rod with a 1-½-inch aluminum cap stamped “CMR/PROTECH SURVEYING RPLS 4288” found at the southeasterly corner of said 6.891 acre partition and being a common corner to the herein described tract and Partition Deed Tract 1: 17.45 acres conveyed to Marion H. Wills, recorded in Volume 2530 at page 720, O.P.R.H.C.TX.;

THENCE, South 62 degrees 24 minutes 22 seconds East, a distance of 392.10 feet, leaving said 6.891 acre partition and continuing along said Partition Deed Tract 1: 17.45 acres, to a ½-inch iron rod found at the southeastern corner of said Partition Deed Tract 1: 17.45 acres and being a common corner to the herein described tract and to a 114.00 acre tract conveyed to Marion H. Wills, recorded in Volume 1658 at page 162, designated as Tract "A", O.P.R.H.C.TX.;

THENCE, South 37 degrees 37 minutes 55 seconds West, a distance of 1340.82 feet, leaving said Partition Deed Tract 1: 17.45 acres and continuing along the westerly lines of said Tract "A" to a ½-inch iron rod found;

THENCE, South 04 degrees 55 minutes 35 seconds East, a distance of 1120.49 feet, continuing along said westerly lines and in part the western line of called 3.00 acres conveyed to Catherine and Curtis Wonderly, recorded in in Volume 2109 at Page 386, O.P.R.H.C.TX., to a ½-inch iron rod found on the northerly lines of called 326.30 acres conveyed to The City of San Marcos, recorded in Volume 1922 at Page 338, O.P.R.H.C.TX., being a common corner to the here described tract, said Tract "A" and said 326.30 acres;

THENCE, leaving said Tract "A" and continuing along the northerly lines of said 326.30 acres the following two (2) courses and distances:

1.) North 88 degrees 23 minutes 17 seconds West, a distance of 252.71 feet, to a calculated point at the common corner of the herein described tract and said 326.03 acres;

2.) North 86 degrees 36 minutes 50 seconds West, a distance of 331.41 feet, to a cedar fence post found at the common corner of the herein described tract, said 326.30 acres and a called 150.00 acres conveyed to The City of San Marcos, recorded in Special Warranty Deed Instrument No. 18037662, O.P.R.H.C.TX.;

THENCE, leaving said 326.30 acres and continuing along the northeasterly lines of said 150.00 acres the following eleven (11) courses and distances:

1.) North 03 degrees 30 minutes 38 seconds East, a distance of 65.87 feet to a 10.5-inch cedar found at the common corner of the herein described tract and said 150.00 acres;

2.) North 07 degrees 18 minutes 58 seconds West, a distance of 104.18 feet a 9.5-inch dead cedar found at the common corner of the herein described tract and said 150.00 acres;

3.) North 19 degrees 13 minutes 11 seconds West, a distance of 21.88 feet to a 12-inch live oak found at the common corner of the herein described tract and said 150.00 acres;

4.) North 33 degrees 55 minutes 57 seconds West, a distance of 960.43 feet to a cedar fence post found at the common corner of the herein described tract, said 150.00 acres;

5.) North 27 degrees 27 minutes 35 seconds West, a distance of 422.53 feet to a cedar fence post found at the common corner of the herein described tract and said 150.00 acres;

6.) North 37 degrees 34 minutes 51 seconds West, a distance of 281.91 feet to a cedar fence post found at the common corner of the herein described tract and said 150.00 acres;

7.) North 34 degrees 40 minutes 21 seconds West, a distance of 102.30 feet to a cedar fence post found at the common corner of the herein described tract and said 150.00 acres;

8.) North 47 degrees 12 minutes 38 seconds East, a distance of 11.01 feet to a cedar fence post found at the common corner of the herein described tract and said 150.00 acres;

9.) North 44 degrees 17 minutes 57 seconds West, a distance of 9.44 feet to a ½-inch iron rod with a plastic cap stamped "BCG" set at the common corner of the herein described tract and said 150.00 acres;

10.) North 10 degrees 02 minutes 03 seconds East, a distance of 104.63 feet to a cedar fence post found at the common corner of the herein described tract and said 150.00 acres;

11.) North 21 degrees 28 minutes 49 seconds West, a distance of 32.52 feet to a cedar fence post found at the common corner of the herein described tract, said 151.00 acres and a called 42.147 acres conveyed to LA CIMA Commercial, LP, recorded in Assumption General Warranty Deed Instrument No. 17042976, O.P.R.H.C.TX., from which a cedar fence post found bears South 43 degrees 09 minutes 44 seconds West, a distance of 155.92 feet;

THENCE, leaving said 150.00 acres and continuing along the easterly lines of said 42.147 acres North 29 degrees 29 minutes 12 seconds West, a distance of 59.58 feet, to an 8-inch dead cedar found at the common corner of the herein described tract and said 42.147 acres;

THENCE, continuing along said easterly line and in part the easterly line of a called 31.721 acres conveyed to LA CIMA Commercial, LP, recorded in Assumption General Warranty Deed Instrument No. 17016156, O.P.R.H.C.TX., North 53 degrees 43 minutes 49 seconds East, a distance of 203.06 feet, to a cedar fence post found at the common corner of the herein described tract and said 31.721 acres;

THENCE, continuing along the easterly line of said 31.721 acres the following three (3) courses and distances:

1.) South 57 degrees 34 minutes 23 seconds East, a distance of 41.64 feet, to a cedar fence post found at the common corner of the herein described tract and said 31.721 acres;

2.) North 45 degrees 24 minutes 15 seconds East, a distance of 852.51 feet, to a cedar fence post found at the common corner of the herein described tract and said 31.721 acres;

3.) North 35 degrees 28 minutes 03 seconds East, a distance of 280.29 feet, to a ½-inch iron rod with a plastic cap stamped "BCG" set at the common corner of the herein described tract, said 31.721 acres and a called 34.368 acres conveyed to LA CIMA Commercial, LP, recorded in Assumption General Warranty Deed Instrument No. 17016156, O.P.R.H.C.TX.;

THENCE, leaving said 31.721 acres and continuing along the easterly line of said 34.368 acres North 35 degrees 28 minutes 03 seconds East, a distance of 1571.35 feet, to the **POINT OF BEGINNING** and containing 94.769 acres (4,128,139 square feet) of land, more or less.

BEARING BASIS: Texas Coordinate System, NAD 83, South Central Zone, Grid.

BOWMAN WORD FILE: FN2360(sf)

THE STATE OF TEXAS §
§ KNOW ALL MEN BY THESE PRESENTS
COUNTY OF TRAVIS §

That I, Terry L. Rowe, a Registered Professional Land Surveyor, do hereby certify that the above description is true and correct to the best of my knowledge and belief and that the property described herein was determined a survey made on the ground in December 2019, under my direction and supervision.

WITNESS MY HAND AND SEAL at Austin, Travis County, Texas, on this 04 day of February 2020 A.D.

Bowman Consulting Group, Ltd.
Austin, Texas 78746

Terry L. Rowe
Registered Professional Land Surveyor
No. 5493 – State of Texas

FIELD NOTES DESCRIPTION

DESCRIPTION OF 6.891 ACRES (300,168 SQUARE FEET) OF LAND SITUATED IN THE JOHN WILLIAMS SURVEY, ABSTRACT No. 471 AND THE JOHN WILLIAMS SURVEY, ABSTRACT No. 490, HAYS COUNTY, TEXAS; BEING A PORTION OF TRACT 1: {b} 17.45 ACRES CONVEYED TO MARCIE B. WILLS, ET. AL., RECORDED IN TRUST DISTRIBUTION DEED INSTRUMENT No. 16043487, OFFICIAL PUBLIC RECORDS OF HAYS COUNTY TEXAS (O.P.R.H.C.TX.); SAID 6.891 ACRES OF LAND AS SURVEYED BY BOWMAN CONSULTING GROUP, LTD. AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a ½-inch iron rod with a 1-½-inch aluminum cap stamped TX.D.O.T. found on the southwesterly right-of-way line of Wonder World Drive (right-of-way varies), the northeasterly corner of the herein described tact and being a common corner to Partition Deed Tract 1: 17.45 acres conveyed to Marion H. Wills, recorded in Volume 2530 at page 720, O.P.R.H.C.TX. and to called 6.8059 acres conveyed to the City of San Marcos, recorded in Volume 3197 at Page 401, O.P.R.H.C.TX., from said beginning point a ½-inch iron rod with a 1-½-inch aluminum cap stamped TX.D.O.T., found on the northeasterly right-of-way line of said drive and at the southeasterly corner of said 6.8059 acres, bears North 32 degrees 28 minutes 22 seconds East, a distance of 253.66 feet;

THENCE, South 32 degrees 24 minutes 03 seconds West, a distance of 648.97 feet, leaving said southwesterly right-of-way line and continuing along the westerly line of said Partition Deed Tract 1: 17.45 acres to a ½-inch iron rod with a 1-½-inch aluminum cap stamped “CMR/PROTECH SURVEYING RPLS 4288” found at the southeasterly corner of the herein described tract and being a common corner to said Partition Deed Tract 1: 17.45 acres and a 94.769 acre partition (Tract 1: South Portion) of Tract 1: {a} 114 acres conveyed to Marice B. Wills, Et. Al., recorded in Trust Distribution Deed Instrument No. 16043487, O.P.R.H.C.TX.;

THENCE, North 62 degrees 23 minutes 09 seconds West, a distance of 408.27 feet, leaving said Partition Deed Tract 1: 17.45 acres and continuing along said 94.769 acre partition to a ½-inch iron rod found at the southwesterly corner of the herein described tract and being common corner to the said 94.769 acre partition;

THENCE, North 36 degrees 40 minutes 50 seconds East, a distance of 948.05 feet, continuing along the easterly line of said 94.769 acre partition to a calculated point on the southwesterly right-of-way line of Wonder World Drive (right-of-way varies), the northwesterly corner of the herein described tract, and being a common corner to said 94.769 acre partition and aforesaid 6.8059 acres, from which a ½-inch iron rod with a plastic cap stamped “BCG” set in the northeasterly right-of-way line of said drive, bears North 36 degrees 40 minutes 50 seconds East, a distance of 240.46 feet;

THENCE, leaving said 94.769 acre partition and continuing with said 6.8059 acres along said southwesterly right-of-way line South 19 degrees 37 minutes 17 seconds East, a distance of 426.38 feet, to the **POINT OF BEGINNING** and containing 6.891 acres (300,168 square feet) of land, more or less.

BEARING BASIS: Texas Coordinate System, NAD 83, South Central Zone, Grid.

BOWMAN WORD FILE: FN2357(sf)

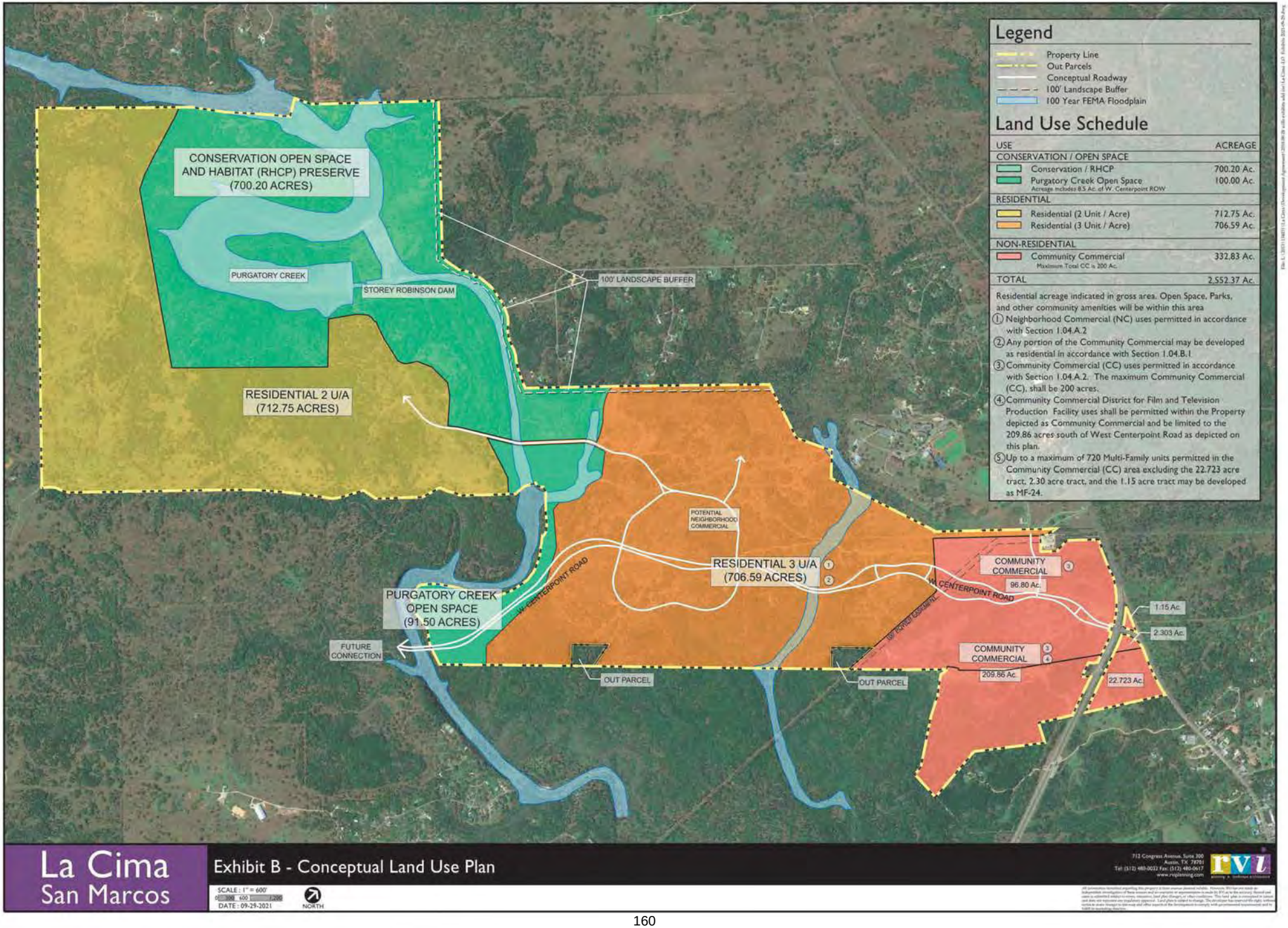
THE STATE OF TEXAS §
§ KNOW ALL MEN BY THESE PRESENTS
COUNTY OF TRAVIS §

That I, Terry L. Rowe, a Registered Professional Land Surveyor, do hereby certify that the above description is true and correct to the best of my knowledge and belief and that the property described herein was determined a survey made on the ground in December 2019, under my direction and supervision.

WITNESS MY HAND AND SEAL at Austin, Travis County, Texas, on this 04 day of February 2020 A.D.

Bowman Consulting Group, Ltd.
Austin, Texas 78746

Terry L. Rowe
Registered Professional Land Surveyor
No. 5493 – State of Texas


CONSERVATION OPEN SPACE AND HABITAT (RHCP) PRESERVE (700.20 ACRES)
PURGATORY CREEK
STOREY ROBINSON DAM
100' LANDSCAPE BUFFER
RESIDENTIAL 2 U/A (712.75 ACRES)
POTENTIAL NEIGHBORHOOD COMMERCIAL
RESIDENTIAL 3 U/A (706.59 ACRES)
PURGATORY CREEK OPEN SPACE (91.50 ACRES)
W. CENTERPOINT ROAD
FUTURE CONNECTION
OUT PARCEL
OUT PARCEL
COMMUNITY COMMERCIAL
96.80 Ac.
COMMUNITY COMMERCIAL
209.86 Ac.
1.15 Ac.
2.303 Ac.
22.723 Ac.
100' ATMOS EASEMENT
Legend
Property Line
Out Parcels
Conceptual Roadway
100' Landscape Buffer
100 Year FEMA Floodplain
Land Use Schedule
USE
ACREAGE
CONSERVATION / OPEN SPACE
Conservation / RHCP
700.20 Ac.
Purgatory Creek Open Space
Acreage includes 8.5 Ac. of W. Centerpoint ROW
100.00 Ac.
RESIDENTIAL
Residential (2 Unit / Acre)
712.75 Ac.
Residential (3 Unit / Acre)
706.59 Ac.
NON-RESIDENTIAL
Community Commercial
Maximum Total CC is 200 Ac.
332.83 Ac.
TOTAL
2,552.37 Ac.
Residential acreage indicated in gross area. Open Space, Parks, and other community amenities will be within this area
1. Neighborhood Commercial (NC) uses permitted in accordance with Section 1.04.A.2
2. Any portion of the Community Commercial may be developed as residential in accordance with Section 1.04.B.1
3. Community Commercial (CC) uses permitted in accordance with Section 1.04.A.2. The maximum Community Commercial (CC), shall be 200 acres.
4. Community Commercial District for Film and Television Production Facility uses shall be permitted within the Property depicted as Community Commercial and be limited to the 209.86 acres south of West Centerpoint Road as depicted on this plan.
5. Up to a maximum of 720 Multi-Family units permitted in the Community Commercial (CC) area excluding the 22.723 acre tract, 2.30 acre tract, and the 1.15 acre tract may be developed as MF-24.
La Cima
San Marcos
Exhibit B - Conceptual Land Use Plan
SCALE : 1" = 600'
DATE : 09-29-2021
NORTH
712 Congress Avenue, Suite 300
Austin, TX 78701
Tel: (512) 480-0022 Fax: (512) 480-0617
www.rvlplanning.com

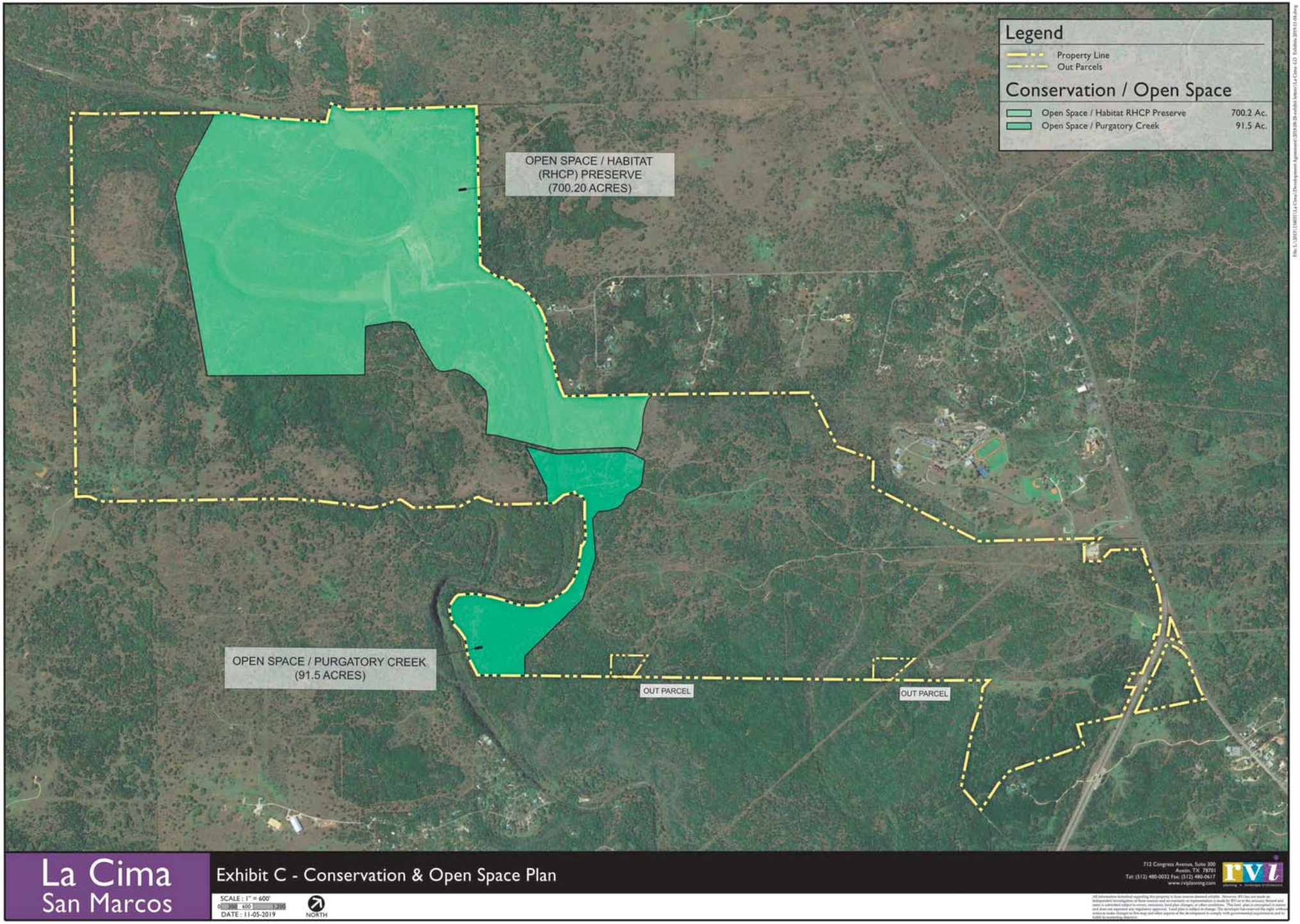

Legend
Property Line
Out Parcels
Conservation / Open Space
Open Space / Habitat RHCP Preserve 700.2 Ac.
Open Space / Purgatory Creek 91.5 Ac.
OPEN SPACE / HABITAT (RHCP) PRESERVE (700.20 ACRES)
OPEN SPACE / PURGATORY CREEK (91.5 ACRES)
OUT PARCEL
OUT PARCEL
La Cima San Marcos
Exhibit C - Conservation & Open Space Plan
SCALE : 1" = 600'
DATE : 11-05-2019
NORTH
712 Congress Avenue, Suite 300
Austin, TX 78701
Tel: (512) 480-0032 Fax: (512) 480-0617
www.rvlplanning.com

Exhibit "D"

DEVELOPMENT STANDARDS FOR FILM AND TELEVISION PRODUCTION FACILITIES USES

Purpose: The following development standards applicable to any portion of the Property developed as Film and Television Production Facilities Uses (as defined in the Development Agreement) on the Property are set forth to achieve a unique look and character for such Film and Television Production Facilities Uses. The intent is to maintain a consistent look and character for the perimeter area of such Film and Television Productions Facilities Uses while providing flexibility for the internal studio portions of such Film and Television Production Facilities Uses. Attached as Exhibit "E" is a conceptual rendering of a layout of a studio site, buildings, and parking for the Film and Television Production Facilities Uses on approximately 75 acres of the Property (the "Studio Site").

1. **Approvals and Controls**: All buildings and site improvements will be submitted to the Film and Television Development Team for conformance with the Architectural Codes and Regulations, and if conforming the specific building or improvement will be submitted to the City of San Marcos for review and approval following compliance with all applicable City Codes and Ordinances. Such buildings and site improvements are intended to be substantially similar to the conceptual Studio Site plan on Exhibit "E", subject to such changes as may be reviewed and approved by the Director of Development Services at the time of site planning.

2. **Approved Uses**: Without limiting the possible uses that may be applicable to any Film and Television Production Facilities Uses, such Film and Television Production Facilities Uses may include:
   Production Studios
   Workshops
   Production Warehouses
   Support Commercial Businesses
   Studio Production Equipment Rental
   Restaurant, Catering, Mobile Food, and Retail
   Bar with sale and on premises consumption of alcohol shall require a Conditional Use Permit
   Temporary Production sets
   Location and size of facilities not limited, except as noted below
   Outdoor recreational areas including executive golf activities, climbing Material Storage Areas (Covered or enclosed structures)

3. **General Development Regulations**
   - **A. Block Requirements:** No limit on lot size of the Studio Site.
   - **B. Setbacks**:
     1. **Film and Television Facilities -** Buildings adjacent to Wonder World Drive will have a minimum setback of 100 feet from the Right of Way. Buildings adjacent to West Centerpoint Road will have a setback of 100 feet from the Right of Way.

2. **Future Development** – Buildings adjacent to West Centerpoint Road as part of Future Development will have a setback of 25 feet from the Right of Way.

C. Entrances: Entrances to the Studio Site will be located at the existing curb cut on Wonder World Drive and at Split Rock Path on West Centerpoint Rd generally as shown on the conceptual site plan for the Studio Site attached as Exhibit E. These entrances will provide controlled access to the secured Studio Site. A turnaround location will be provided as part of the Studio Site generally as shown on Exhibit E.

D. Driveway Dimensions: Maximum radius at 30' on Wonderworld Drive.

E. Cut and Fill Requirements: Cut and Fill of 30ft will be allowed for the construction of the Studio Site. The Studio Site will cover approximately 75 acres generally as shown on Exhibit E.

F. Fencing: Perimeter fencing up to a maximum height of 10ft will be allowed around the Studio Site. Decorative fencing will be constructed of steel or aluminum at such locations generally as shown on Exhibit E. No Perimeter fencing associated with the studio site will be located closer than 100ft of any adjacent public Right of Way.

G. Signage: Each building will be allowed two building wall signs or one building wall sign and one monument sign. In addition to this primary signage, site directional signage will be allowed as required for direction of pedestrian or traffic flows. Interior signage will not be limited in size or illumination and will face the interior of the site and will be limited to facades of interior facing buildings, driveways and parking areas.

H. Sidewalks: Sidewalks and/or easements for sidewalks will be provided along all public street frontages, including Wonder World Drive. City may accept in accordance with Section 3.8.1.2 of the Land Development Code as amended on September 1, 2020, as supplemented and modified, a cash fee for the installation of all or part of such sidewalk adjacent to Wonder World Drive.

I. Lighting Standards: Exterior Lighting will be provided with cutoff type fixtures at various mounting heights. Street lighting will be themed, utilitarian security lighting and general illumination lighting will be mounted to allow fixtures to be controlled as production needs occur to override light sensors. All lighting will have controls to allow prescribed areas to be turned on or off as needed by the productions. All lighting will comply with all applicable City Codes and Ordinances.

J. Architectural Style:

1. **Entry Monuments:** All areas and vehicle entrances from Wonder World Drive and West Centerpoint Road will incorporate natural materials at each entry.
2. **Building Facades:** The character of building facades will be reflective of the character of the general nonresidential architectural design standards in Section of 1.04.E.2 of the Development Agreement but not held to the percentage of material requirements set forth therein.

K. Size/Height:

1. Studio Support Businesses adjoining Wonder World Drive and West Centerpoint Road will be limited to 40 feet in height. Buildings will not be limited in area but will require

no more than 100 feet of unbroken mass before a minimum 2 x 2-foot articulation occurs to break the massing.

2. Studio Production Areas including workshops and interior support buildings will be limited to 65 feet in height measured from average grade around buildings to average roof height. Only sound stages may exceed 65 feet in height and a maximum of 90 feet in height.
3. Office buildings shall be limited to 110' tall, which include lower levels below grade and screening structures on roofs.
4. Specialty areas such as water towers, silos, or steeples, or any temporary set structure will not be restricted. Temporary shall mean for a period of 180 days with ability to extend time in 180-day increments with City Staff approval.

L. Materials: Structures within the Studio Site will have consistent details using brick, concrete, wood appearance, stucco, or stone material, or facades that simulate the same material. Structures include studios and workshops with metal siding, painted or natural concrete, stucco, brick, stone, or wood (or facades that simulate the material). Temporary sets may include plastics or other materials to simulate exterior materials. All materials will be approved by city building officials.

M. Roofs:

1. Studio roofs will not be limited in materials or pitch.

N. Tree Save Areas: Credit for all Trees saved outside the Limits of Construction within the 209.86 will be applied toward Trees removed within in the 209.86 acres.

O. Landscaping:

1. Perimeter landscaping will be grass and indigenous materials with xeriscape characteristics. All perimeter landscaping will at a minimum meet the landscape requirements in Section of 1.04.F of the Development Agreement applicable to Film and Television Productions Facilities Uses.
2. All interior landscape and parking lot landscape requirements shall be waived and exempt from City of San Marcos and Section of 1.04.F of the Development Agreement within the secured studio area.

P. Parking Areas: Parking areas within 100 feet of Wonder World Drive and West Centerpoint Road will be visually screened by evergreen hedges and/or landscaped berms at a typical height of 4 feet.

Q. Parking Requirements: The Studio Site will have 65 permanent parking spaces per stage and up to 800 permanent parking spaces will be provided at full build out of the Studio Site. Up to an additional 400 flexible spaces will be provide as needed.

R. Bicycle Parking: At minimum one bicycle rack holding up to a minimum of 5 bikes will be provided per building and additional racks provided as needed per developer.

S. Screening requirements: All dumpsters located within 200 feet of a Public Street or where visible from a public street will be screened.

T. Noise Standards: Outdoor productions generating greater than 85 decibels at the Studio Site boundary require advance notice to residents within 1,500 feet of such productions.

U. Hours of Operation: Production schedules will not limit hours of operation.

V. Transit Stop: A transit stop will be located adjacent to West Centerpoint Road at or near the intersection of Split Rock Road at such location as mutually agreed to with City and at such time that there is a public need for such transit stop.

EXHIBIT - E

SAN MARCOS, TEXAS

2021-10-20

0 100 200 300 feet

SCALE: 1" = 100'

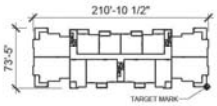
NORTH

BUILDING KEY

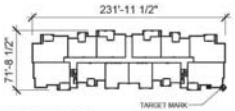
1 / A — BUILDING NUMBER / BUILDING TYPE

UNIT TABULATION

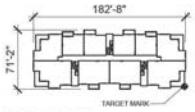
UNIT TYPE	#UNITS	%
A - ONE BEDROOM, ONE BATH	166	54%
B - TWO BEDROOM, TWO BATH	130	43%
C - THREE BEDROOM, TWO BATH	8	3%
TOTAL	304	100%



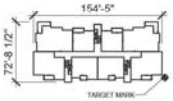
BUILDING 'A' — 2 STORY, 3 REQ'D



BUILDING 'B' — 3 STORY, 2 REQ'D



BUILDING 'C' — 3 STORY, 3 REC'D



BUILDING 'D' OR 'E' — BLDG D: 2 STORY, 2 REQ'D; BLDG E: 3 STORY, 2 REC'D; TOTAL 4 REC'D

EXHIBIT F - LA CIMA PHASE 1 MULTI-FAMILY

STATE OF TEXAS	**§**	**DEVELOPMENT AGREEMENT**
COUNTY OF HAYS	**§**	**LA CIMA SAN MARCOS**

This ~~FIFTH~~SIXTH **AMENDED AND RESTATED DEVELOPMENT AGREEMENT** (this "**Agreement**") is made and entered into as of the _____ day of _____, ~~2021~~2022 (the "**Effective Date**"), by and between the **CITY OF SAN MARCOS, TEXAS**, a Texas municipal corporation (the "**City**"), Hays County, Texas (the "**County**"), and **LAZY OAKS RANCH, LP**, a Texas Limited Partnership ("**LOR**"), LCSM Ph. 1-1, LLC, a Texas limited liability company as partial assignee of LOR ("**LCSM Ph.1-1**"), LCSM Ph. 1-2, LLC, a Texas limited liability company as partial assignee of LOR ("**LCSM Ph.1-2**"), LCSM Ph. 2, LLC, a Texas limited liability company as partial assignee of LOR ("**LCSM Ph. 2**"), LCSM Ph. 3, LLC, a Texas limited liability company as partial assignee of LOR ("**LCSM Ph. 3**"), LCSM Ph. 4, LLC, a Texas limited liability company as partial assignee of LOR ("**LCSM Ph. 4**"), La Cima Commercial, LP a Texas partnership as a partial assignee of LOR ("**La Cima Commercial**"), LCSM WW, LLC, a Texas limited liability company as a partial assignee of LOR ("**LCSM WW**"), and LCSM West, LP, a Texas limited partnership ("**LCSM West**" and, together with LOR, LCSM Ph.1-1, LCSM Ph. 1-2, LCSM Ph. 2, LCSM Ph. 3, LCSM Ph. 4, La Cima Commercial, and LCSM WW, the "**Owner**"). The City and Owner are sometimes hereinafter referred to individually as "**Party**", and collectively as the "**Parties**". The Parties agree as follows:

PURPOSES AND CONSIDERATIONS

WHEREAS, the City and LOR entered into that certain ~~Fourth~~Fifth Amended and Restated Development Agreement dated ~~July 6~~November 23, 2021, and recorded under Document Number ~~21043420~~21065547 in the Official Public Records of Hays County, Texas (the "Existing Development Agreement"), related to that certain 2,552.379 acres, more or less, parcels of land (collectively, the "Property") located in the Extraterritorial Jurisdiction ("ETJ") of the City, Hays County, Texas, and more particularly described in **Exhibit "A", Exhibit "A-1", Exhibit "A-2", Exhibit "A-3",** and **Exhibit "A-4",** attached hereto and incorporated herein for all purposes (with the land in Exhibit "A-1" and Exhibit "A-2" collectively, the "La Cima Outparcels"; the land 101.66 acre tract of land and the 22.723 acre tract of land described in Exhibit "A-4" collectively, the "Additional Property"; and the 22.723 acre tract described in Exhibit "A-4" individually, the "Additional 22 Acre Tract");

WHEREAS, Owner desires to develop the Property totaling 2,552.379 acres of land as a single family residential, limited nonresidential and conservation, preservation and open space development generally to foster a walkable and bikeable community in accordance with the **Conceptual Land Use Plan**, as more particularly described in **Exhibit "B"** attached hereto and incorporated herein for all purposes and under the name La Cima San Marcos (the "Project");

WHEREAS, the Property is appraised for ad valorem tax purposes as land for agricultural or wildlife management use or timber land under Chapter 23, Texas Tax Code;

WHEREAS, the City is authorized by Section 43.035 of the Texas Local Government Code to offer to make a development agreement with the owner of land appraised for such purposes pursuant to Section 212.172 of the Texas Local Government Code to defer the annexation of the property until the land owner files a subdivision plat or other development application for any portion of the property;

WHEREAS, by entering into this Agreement, Owner has accepted the City's offer to enter into a development agreement pursuant to both Section 43.035 and Section 212.172 of the Texas Local Government Code with the mutual understanding that this Agreement shall constitute a permit for the purposes of Chapter 245 of the Texas Local Government Code;

WHEREAS, an area adjacent or contiguous to an area that is subject of development agreement entered into under Section 43.035 and Section 212.172 of the Texas Local Government Code is considered to be adjacent or contiguous to the municipality; and

WHEREAS, the City is authorized to amend the Existing Development Agreement and to make and enter into this Agreement with Owner in accordance with Subchapter G, Chapter 212, Local Government Code and Chapters 1 and 2 of the City's Land Development Code ("LDC"), to accomplish the following purposes:

A. Extend the City's planning authority in accordance with the Conceptual Land Use Plan and the development regulations contained herein under which certain uses and development of the Property is authorized; and

B. Authorize enforcement by the City of municipal land use and development regulations as applicable; and

C. Authorize enforcement by the City of land use and development regulations other than those that apply within the City's boundaries, as may be agreed to by the Parties and included in this Agreement; and

D. Specify the uses and development of the Property before and after annexation; and

E. Provide for infrastructure including, but not limited to, stormwater drainage and water, wastewater and other utility systems; and

F. Include such other lawful terms and considerations the Parties consider appropriate.

NOW THEREFORE, the City and Owner in consideration of the premises, the mutual covenants and agreements of the Parties hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Parties, hereby amend and restate the Existing Development Agreement and agree as follows:

SECTION 1: GENERAL TERMS AND CONDITIONS

1.01 Conceptual Land Use Plan

The City hereby approves the general use and development of the Property in accordance with the Conceptual Land Use Plan, which is incorporated herein as **Exhibit "B"**. **Exhibit "C"** separately shows the proposed Open Space that is part of the Conceptual Land Use Plan. The Conceptual Land Use Plan shall constitute the land use plan under Section 1.4.2.4(g) of the LDC. The Conceptual Land Use Plan may be amended from time to time in accordance with the processes and procedures outlined in Section 1.4.2.6(c) of the City's LDC. Development applications for the Property shall be consistent with the Conceptual Land Use Plan.

1.02 Annexation

Upon approval of this Agreement, Owner agrees to the full purpose annexation of the Property at the time the corporate limits of the City becomes adjacent to the Property. Provided, however, that the City hereby agrees to phase the annexation of the Property as follows: At the time the City's corporate limits become adjacent to the Property, the City may initiate the full purpose annexation of all or any portion of the Property on which a final subdivision plat has been recorded. Upon annexation of all or any portions of the Property, the applicant shall initiate a zoning change for said annexed portions to establish a zoning district(s) that is (are) consistent with the terms and conditions of this Agreement. The City hereby guarantees the continuing ETJ status of the remainder of the Property not subject to a final recorded plat until such time that a final plat is recorded for all or any portion of such remainder of the Property. The Parties hereby agree that all applicable regulations and planning authority of the City's LDC may be enforced on the Property. The limitations on the City's annexation authority shall apply only during the term of this Agreement.

1.03 Governing Development Regulations

A. Development of the Property shall be governed by the following:
   1. The Conceptual Land Use Plan and this Agreement; and
   2. The applicable provisions of the City's LDC and Ordinances;
   3. The applicable provisions of the Development Regulations of Hays County; and
   4. Construction plans and final plats for all or any portion of the Property that are approved from time to time by the City (collectively, the "Approved Plats").
   5. The Parties acknowledge that prior to or concurrent with the submittal of the first plat application for development on the Property or any portion thereof, a Traffic Impact Analysis (the "TIA") will be required. At the time of submittal of the TIA, the traffic impacts shall be evaluated based on the full build-out development of the entire project (as defined in Section 1.04, below) and not on the individual plat.
   6. Applicable provisions of the Texas Local Government Code, and other state and federal laws ("Other Laws").
   7. In the event of a conflict between the City's and/or County's development regulations and the Owner's rights under this Agreement, this Agreement shall control.

B. The Conceptual Land Use Plan, this Agreement, the LDC, the Approved Plats, the Required Studies and Other Laws shall hereinafter be referred to collectively as the "Governing Regulations."

C. Plat Approval: Owner and the City agree that the approved land uses in each final plat of portions of the Property shall be consistent with the Conceptual Land Use Plan, as may be amended from time to time.

D. Enforcement: The Parties agree that the City and County shall be entitled to enforce all applicable municipal land use and development regulations for the Property and the Governing Regulations.

E. No Contractual Enlargement of Exemption from City Standards: Notwithstanding any other provision in this Agreement, including references to such things as the "Governing Regulations" or the "Time of Submittal", this Agreement shall in no manner be construed to create any exemption from applicable ordinances or laws, entitlement or vesting of rights beyond what is expressly provided in Chapter 245. Owner specifically acknowledges that development of the Property shall be subject to the City's ordinances, regulations, and policies regarding water and sewer utility connections, including those that address development over the Edwards Aquifer Recharge Zone, as amended from time to time.

F. The Governing Regulations shall be applicable to control the development of the Property. Unless otherwise specifically authorized by the City, the Property may not be developed to a lesser standard than that required by the Governing Regulations.

G. Third Party Inspection Services: Unless an alternative is mutually agreed upon by the Parties, any plan review and building inspections conducted during the permitting process and through receipt of certificate of occupancy shall be conducted by a qualified, third-party plan review and inspection service, mutually agreed upon by the Parties, and results shall be provided in the City's permitting system.

1.04 Permitted Uses, Project Density and Dimensional and Development Standards

Owner envisions the development of the Property as a predominantly single family residential development with limited nonresidential development, open space, conservation and preservation areas in accordance with the Conceptual Land Use Plan. The existing topography and natural areas on the Property provide for opportunities to develop the Property as a conservation development where pods of smaller lot sizes may be clustered to provide for preservation of existing natural features and open space. The Property may be developed as a conservation development, a conventional development or a combination thereof. In order to achieve the maximum development flexibility possible within the Project, this Agreement establishes a variety of uses and lot types and sizes that may be developed on the Property.

A. Permitted Uses: The following uses shall be permitted on the Property in accordance with the City's zoning districts as defined on the Effective Date:
   1. Residential: All permitted uses identified in the SF-R, Single Family Rural Residential District, SF-11, Single Family District, SF-6, Single Family District, SF-4.5, Single Family

District, TH, Townhouse Residential District and the PH-ZL, Patio Home Zero Lot Line Residential District.

2. Nonresidential: All permitted uses identified in the NC, Neighborhood Commercial District shall be permitted within the 3 unit per acre portion of the Property depicted on the Conceptual Land Use Plan. All permitted uses (i) identified in the CC, Community Commercial District and/or (ii) identified in GC, General Commercial District for Film and Television Production Facilities Uses (as defined below) shall be permitted within the Property depicted as Community Commercial on the Conceptual Land Use Plan, up to a maximum of 200 acres for the combined uses under (i) and (ii). "Film and Television Production Facilities Uses" shall include any television/radio broadcasting studio, recording studio, telecommunication, and/or movie/media productions (including on-site with movie/media productions; any ancillary businesses that supply services, equipment, and resources to any of the forgoing or the movie/media industry in general; and any training center, trade school, and/or vocation centers ancillary or related to any of the foregoing. Nonresidential uses, if developed, are intended to be located at appropriate locations, such as along thoroughfare corridors or at the intersections of major thoroughfares, within the development.
3. Multi-Family: All permitted uses identified in the MF-24, Multiple-Family Residential District shall be permitted within any portion of the Property depicted as Community Commercial on the Conceptual Land Use Plan (but excluding the La Cima Outparcels and the Additional 22 Acre Tract) up to a maximum of 720 units; provided, however, that Purpose Built Student Housing (as established by City Ordinance N0. 2016-24) shall be prohibited.
4. Condominium Residential: A development type allowed in any district containing multiple individually owned dwelling units and jointly owned and shared common areas and facilities on a common lot shall be permitted in any portion of the Property in connection with a Conditional Use Permit approved by the City Council.
5. School Site. The Parties acknowledge that the Project is located within the San Marcos Consolidated Independent School District (the "District"). Owner shall dedicate up to a 12 acre site for a future elementary school to the District at the time of platting of such school site with a maximum impervious cover allocation equal to the greater of 55% of such site or 6.6 acres. The actual terms, size, timing, and location of the school site will be determined by Owner and the District.
6. Fire/Police/EMS Station; Transit Stops. Owner has transferred to the City a 3.505 acre site, located no more than one-third mile driving distance from the intersection of Old Ranch Road 12 and Wonder World Drive, for a future fire station and/or police or EMS station. Such site shall have a maximum impervious cover allocation equal to 2.1 acres. Transit stop locations will be determined by Owner and City at the time of platting of such locations.
7. Conditional uses authorized in the above residential and nonresidential base districts shall only be permitted if approved by the City in accordance with the procedures and requirements of the City's LDC. Any proposed use, other than a Corporate Campus or Film and Television Production Facilities Uses, within a nonresidential area with a single tenant greater than 80,000 square feet in size shall require a Conditional Use Permit in accordance with the City's Land Development Code subject to a recommendations by the Planning and Zoning Commission and final approval by City Council.
8. Notwithstanding anything in this Agreement or in the City's LDC or ordinances to the contrary, no extraction of or exploration for surface or sub-surface mineral resources or natural resources may be conducted on the Property, including but not limited to quarries, borrow pits, sand or gravel operations, oil or gas exploration or extraction activities, and mining operations. This prohibition shall not be interpreted to prohibit excavation of soil in connection with the development of the Property consistent with this Agreement.

B. Project Density: The Project shall be restricted to a maximum of 2,800 dwelling units for an overall project density of 1.10 units per acre ("UPA"). Project density shall be further restricted as follows:
   1. approximately 706.59 acres of the Property located east of Purgatory Creek as illustrated on

the Conceptual Land Use Plan shall be restricted to a maximum of 3 units per acre and all lot types provided for in Section 1.04.C of this Agreement are permitted, provided, however, that any portion of the Property depicted as Community Commercial on the Conceptual Land Use Plan as permitted in Section 1.04.A.2. of this Agreement not developed for nonresidential may also be developed for residential uses in accordance with these density and lot type restrictions;

2. the approximately 712.75 acres of the Property located west of Purgatory Creek shall be restricted to a maximum of 2 units per acre and all lot types provided for in Section 1.04.C of this Agreement are permitted; and
3. Project density may be distributed evenly or may be clustered utilizing a conservation or clustered development plan provided that the maximum density for each of the designated areas above does not exceed the applicable the maximum density for such designated area and subject to the applicable use, lot type and size restrictions for such designated area, all as described herein and depicted on the Conceptual Land Use Plan.

C. Dimensional and Development Standards: The Property shall be developed in compliance with the following lot sizes, dimensions and development regulations:

1. Single Family Residential Estate Lots
   Lot Area, Minimum: 43,560 sq. ft
   Lot Width, Minimum: 150 feet
   Lot Depth, Minimum: 200 feet
   Lot Frontage, Minimum: 100 feet
   Front Yard Setback, Minimum: 20 feet
   Side Yard Setback, Interior, Minimum: 10 feet
   Side Yard Setback, Corner, Minimum: 20 feet
   Rear Yard Setback, Minimum: 20 feet
   Building Height, Maximum: 2.5 stories
   Impervious Cover, Maximum: 40%

2. Single-Family Residential Rural Lots
   Lot Area, Minimum: 11,000 sq. ft.
   Lot Width, Minimum: 80 feet
   Lot Depth, Minimum: 100 feet
   Lot Frontage, Minimum: 60 feet
   Front Yard Setback, Minimum: 10 feet
   Side Yard Setback, Interior, Minimum: 10 feet
   Side Yard Setback, Corner, Minimum: 10 feet
   Rear Yard Setback, Minimum: 10 feet
   Building Height, Maximum: 2.5 stories
   Impervious Cover, Maximum: 50%

3. Single Family Residential Manor Lots
   Lot Area, Minimum: 6,000 sq. ft.
   Lot Width, Minimum: 50 feet
   Lot Depth, Minimum: 100 feet
   Lot Frontage, Minimum: 35 feet
   Front Yard Setback, Minimum: 10 feet
   Side Yard Setback, Interior, Minimum: 5 feet
   Side Yard Setback, Corner, Minimum: 10 feet
   Rear Yard Setback, Minimum: 10 feet
   Building Height, Maximum: 2 stories
   Impervious Cover, Maximum: 60%

4. Single Family Residential Cottage Lots
   Lot Area, Minimum: 4,500 sq. ft.

Lot Width, Minimum: 40 feet
Lot Depth, Minimum: 100 feet
Lot Frontage, Minimum: 35 feet
Front Yard Setback, Minimum: 10 feet
Side Yard Setback, Interior, Minimum: 5 feet
Side Yard Setback, Corner, Minimum: 10 feet
Rear Yard Setback, Minimum: 10 feet
Building Height, Maximum: 2 stories
Impervious Cover, Maximum: 60%

5. Garden/Patio Home/Zero Lot Line Homes
Lot Area, Minimum: 2,700 sq. ft.
Lot Width, Minimum: 28 feet
Lot Depth, Minimum: 90 feet
Lot Frontage, Minimum: 25 feet
Front Yard Setback, Minimum: 10 feet
Side Yard Setback, Interior, Minimum: 0/5 feet*
Side Yard Setback, Corner, Minimum: 10 feet*
Rear Yard Setback, Minimum: 5 feet
Garage Side Yard Setback Opposite House: 0 feet
Garage Setback from Front of House: 10 feet
Building Height, Maximum: 2 stories
Impervious Cover, Maximum: 75%

* The primary structure/dwelling may be constructed with a 0 side yard on one side, and a side yard of not less than 5 feet on the other side. A detached accessory structure such as a garage or storage building may have a 0 side yard on the 5 foot side provided, however, the structure is located behind the rear façade of the primary building on the lot. On the 0 side, the structure may be set back a maximum of 1 foot. A 5 foot wide maintenance, drainage, and roof overhang easement extending the full depth of the lot shall be designated along the side property line which abuts the zero side yard on an adjacent lot, and shall be indicated on the Final Plat. In all cases, there shall be at least a 10 foot side yard on corner lots where adjacent to a street right-of-way or alley.

** To help achieve the flexibility envisioned and the goals for the development of the Project, the exceptions to the Lot Width to Depth ratio provided in Section 3.6.3.1.B.3.b of the City's LDC shall include and be applicable to Garden/Patio Home/Zero Lot Line lots.

6. Townhouse Residential Lots
Lot Area, Minimum: 2,500 sq. ft.
Lot Width, Minimum: 25 feet
Lot Depth, Minimum: 90 feet
Lot Frontage, Minimum: 25 feet
Front Yard Setback, Minimum: 10 feet
Side Yard Setback, Interior, Minimum: 0 feet attached walls / 5 feet end walls
Side Yard Setback, Corner, Minimum: 10 feet
Rear Yard Setback, Minimum: 10 feet
Building Height, Maximum: 2 stories
Impervious Cover, Maximum: 75%

7. Multi-Family Residential M-24 Areas.
Lot Area, Minimum: 12,000 square feet
Units/Acre (Maximum/Gross Acre): 24.0
Lot Width, Minimum: 60
Lot Depth, Minimum: 100

Lot Frontage, Minimum:	60
Front Yard Setback, Minimum:	10
Side Yard Setback, Interior, Minimum:	10
Side Yard Setback, Corner, Minimum:	15
Rear Yard Setback, Minimum:	10
Building Height, Maximum:	4 stories
Impervious Cover, Maximum:	75%

8. Nonresidential

Lot Area, Minimum:	6,000 sq. ft.
Lot Width, Minimum:	50 feet
Lot Depth, Minimum:	100 feet
Lot Frontage, Minimum:	50 feet
Front Yard Setback, Minimum:	10 feet
Side Yard Setback, Interior, Minimum:	5 feet
Side Yard Setback, Corner, Minimum:	10 feet
Rear Yard Setback, Minimum:	5 feet
Building Height, Maximum:	N/A
Impervious Cover, Maximum:	80%

9. Cluster/Conservation Development
To encourage cluster development within the Project, the following limitations on the location of the above residential lot types shall be applicable:

Slope Limitations	
Slope Gradient	**Lot Types Permitted**
0% to 15%	Single Family Residential Estate Lots Single Family Residential Rural Lots Single Family Residential Manor Lots Single Family Residential Cottage Lots Garden/Patio Home/Zero Lot Line Homes Townhouse Residential Lots
15% to 25%	Single Family Residential Rural Lots Single Family Residential Manor Lots Single Family Residential Cottage Lots Garden/Patio Home/Zero Lot Line Homes
Over 25%	Single Family Residential Estate Lots Single Family Residential Rural Lots Open Space and Conservation Areas

D. Phasing: A phasing plan shall be submitted with a Subdivision Concept Plat to ensure orderly development of the Project. Any portion of the Property developed as MF-24, Multiple-Family Residential District in accordance with Section 1.04.A.3 above shall be developed in a minimum of two phases with the first phase to be no more than 360 units and subject to the requirements in subparagraph 1 below and any subsequent phases shall be deferred until after such first phase is complete and at least 75% occupied and at least 200 single-family homes have been completed and occupied and shall not be subject to the requirements in subparagraph 1 below.

1. La Cima Phase 1 Multi-Family requirements:
   a. No multi-family buildings shall be located closer than 180 feet to a single-family property line.
   b. Buildings adjacent to the power line easement (Document No. 71422) which are wholly or partially within 180-250 feet of a single-family property line shall not exceed 2 stories in height.

c. No multi-family buildings shall be located closer than 100 feet to the right-of-way line along West Centerpoint Road.
d. Buildings which are wholly or partially within 100-170 feet of the West Centerpoint Road right of way shall not exceed 2 stories in height.
e. No multi-family buildings shall exceed 3 stories in height.
f. The muli-family development shall be substantially similar to Exhibit F attached hereto as a Concept Plan for Phase 1 Multi-Family. Adjustments to this site plan that are required by City Staff in order to bring the plan into more conformance with applicable City Codes shall be approved by City Planning Director.

E. Architectural Design Standards: Architecture and the built environment are important elements to the development of the Project. Due to the importance of these elements, all architectural styles should produce a cohesive visual framework while maintaining architectural variety. All architecture should reflect high quality and craftsmanship, both in design and construction. The use of unusual shapes, colors, and other characteristics that cause disharmony should be avoided. A Texas Hill Country style should be reflected through the use of natural materials and textures.

Achieving a high quality of architectural design for all buildings within the Development is considered a principal goal of these design standards. A variety of lot and dwelling types within the neighborhood should be encouraged. Careful design of a neighborhood can mix different housing types and price ranges. Reflecting the vision of the Project, these development standards call for exterior materials that express the natural environment and range of natural materials found in Central Texas.

The Owner shall record deed restrictions regulating the development of the Property which deed restrictions shall incorporate the standards and requirements of this section E. The deed restrictions shall be enforceable by a homeowner's association created by the Owner and shall be subject to the provisions of Section 1.09.

1. Project Residential Architectural Design Standards
   a. A minimum of 100% of each residence on a Single Family Residential Estate lot in accordance with Section 1.04.C.1, excluding doors, windows, fascia, trim, handrails, guardrails, decks, columns, etc., shall be masonry consisting of brick, stone, stucco or a combination thereof.
   b. A minimum of 80% of each residence on the lots identified in Section 1.04.C.2 – 1.04.C.6, excluding doors, windows, fascia, trim, handrails, guardrails, decks, columns, etc., shall be masonry consisting of brick, stone, stucco or a combination thereof.
   c. The number of primary exterior materials shall be limited to three (3) excluding architectural accent features, roof materials, and windows or doors.
   d. Exterior facades shall have a variety of earth tone colors including, but not limited to, reds, browns, light tans, natural and warm whites (stark whites shall be prohibited), buffs, beiges, creams and regionally quarried stone colors.
   e. All facades of a building shall be of consistent design and treatment unless the building facade is not visible from public view.
   f. The use of window awnings, overhangs and shutters is encouraged. Materials and colors shall be the same or complimentary to the exterior of the building.
   g. All single family detached dwellings are encouraged to have front porches or porticos.
   h. Detached garages are permitted and encouraged.
   i. Detached garages with second level dwelling units are permitted provided, however, that second level dwelling units and the primary structure shall be on a single service meter and the occupancy restrictions of the City's LDC prohibiting occupancy by more than more than two unrelated persons will apply.
   j. Corner dwelling units shall present a façade that is consistent in design and architecture to both streets.
   k. Corner dwelling units are encouraged to have wrap around porches.

l. Corner lots shall have landscaping that is consistent in design and treatment on both street frontages.
m. Pool and HVAC equipment on corner lots shall be located on the interior side or rear property line.
n. Trash and waste containers shall be located in an area that is screened from public view.
o. These standards shall apply equally to additions and/or alterations to existing structures as well as to new structures. All accessory structures shall be constructed in such a manner so as to be compatible in look, style and materials as the primary structures on the project site.
p. Alternative design standards for all structures may be utilized upon review and approval by the Director of Development Services at the time of site planning. Any decision of the Director of Development Services may be appealed to the Planning and Zoning Commission.

2. Project Nonresidential Architectural Design Standards
   a. All facades shall use one or more of four native limestone colors: Lueders, Cordova Cream, Sandstone, and Shell Stone, or a similar matching manufactured stone. Comparable materials in color, finish, durability, and quality may be substituted for the referenced materials upon review and approval by the Director of Development Services, appealable to the Planning and Zoning Commission.
   b. Architectural façades that clearly define a base, middle and cap are required. These materials should be responsive to climate, adjacent context, site orientation and building usage.
   c. All buildings within the Project shall be designed with a high level of detail, with careful attention to the combination of and interface between materials. Materials chosen shall be appropriate for the theme and scale of the building, compatible with its location within the development, and expressive of the community's desired character and image. Details and materials shall be consistent on all sides of buildings.
   d. A minimum of 80% of each building, excluding doors and windows, shall be masonry consisting of brick, stone, stucco, split face concrete units, or faux stone or brick.
   e. Front facades shall be oriented towards the street right-of-way as appropriate.
   f. Building entrances shall be recessed from the front façade or located under a shade device such as an awning or portico.
   g. Off-street parking areas shall be shielded from view from the right-of-way through the use of landscape plantings, landscape berms or a combination thereof.
   h. These standards shall apply equally to additions and/or alterations to existing structures as well as to new structures. All accessory structures shall be constructed in such a manner so as to be compatible in look, style and materials as the primary structures on the project site.
   i. Notwithstanding any provision herein to the contrary, any portion of the Property developed as Film and Television Production Facilities Uses in accordance with Section 1.04.A.2 above shall be developed and designed in accordance with the development standards governing such Film and Television Production Facilities Uses that are set forth on **Exhibit "D"** attached hereto.
   j. Alternative design standards for all structures may be utilized upon review and approval by the Director of Development Services at the time of site planning. Any decision of the Director of Development Services may be appealed to the Planning and Zoning Commission.

3. Project Multi-Family Architectural Design Standards. Any portion of the Property developed as MF-24, Multi~~ple~~-Family Residential District in accordance with Section 1.04.A.3 above shall be developed in accordance with the permitted uses and development standards for the MF-24, Multi-Family Residential District (including the multifamily residential design standards set forth in Ordinance 2014-35). Upon submittal of deed restrictions required in

Section 1.09 below, the Owner shall meet or exceed the Building Design Section of such multifamily residential design standards. Any deviations from such multifamily residential design standards shall require approval of the City Council.

F. Additional Landscape Standards: In addition to the requirements of the City's LDC, the following landscape standards shall be applicable to the development of the Project:
   1. The use of drought tolerant, native landscape materials, xeriscaping, active or passive rainwater collection, or a combination thereof, is strongly encouraged for all portions of the Project.
   2. Where feasible, native vegetation shall be preserved and remain undisturbed and shall be maintained consistent with any installed landscaping.
   3. Where possible, trees that are intended for removal should be relocated utilizing accepted transplanting or relocation practices. Any trees that are relocated may be counted towards any required tree preservation credits.
   4. A minimum of 25% of the total lot area of a NC, Neighborhood Commercial lot and 10% of the total lot area of a CC, Community Commercial lot shall be dedicated to landscaping. The Corporate Campus shall have a minimum of 15% of the total lot area dedicated to landscaping. Any Film and Television Production Facilities Uses shall have a minimum of 15% of the total lot area dedicated to landscaping. All landscape areas on nonresidential lots shall be provided with an irrigation system designed by a Texas Licensed Irrigator consisting of one of, or a combination of, an automatic underground spray or drip irrigation system or a hose attachment. No irrigation shall be required for undisturbed natural areas or undisturbed existing trees.
   5. Where a solid ground cover or lawn is proposed for the front yard of a residential lot, the use of an automatic spray or drip irrigation system is strongly encouraged. At a minimum, a hose attachment shall be required within 100 feet of all front yard landscaping to ensure proper hand watering/irrigation.
   6. A minimum 100 foot wide tree preservation/open space landscape buffer setback shall be provided adjacent to the existing Fox Ridge single family residential subdivision along the northwest property line and along the portion of Purgatory Creek that borders the existing Settlement subdivision. The Conceptual Land Use Plan illustrates the location of this tree preservation/open space landscape buffer and provides GIS coordinates at various points along the buffer for reference. This tree preservation/open space landscape buffer is intended to serve as a buffer from the adjacent lots in the Fox Ridge and Settlement Subdivisions. The tree preservation/open space landscape buffer setback will be privately owned and maintained by the Property Owner. Unless otherwise approved through a Site Development Permit, there shall be no clearing, grading or public access within the tree preservation/open space landscape buffer setback area except as may be necessary to allow for the construction of a fence along a property line. The tree preservation/open space landscape buffer setback area shall be maintained free of all, trash, rubbish, debris or other similar nuisances and fire hazards in accordance with this agreement and the requirements of the City of San Marcos Code of Ordinances.
   7. The boundary between the Residential 2 U/A area and southeastern most portion of the "Conservation or Open Space or Proposed Habitat (RHCP) Preserve" as illustrated on the Conceptual Land Use Plan and generally located between the existing Fox Ridge/Settlement subdivisions and the Residential 2 U/A area within the Project, south of Purgatory Creek, has been delineated with GIS coordinates as provided on the Conceptual Land Use Plan.

1.05 Public Infrastructure Improvements

A. The City hereby agrees to allow the extension, improvements of, and connections to City water and wastewater facilities to provide service to the Project up to a maximum of 4,000 service units equivalent. Owner anticipates that the Project will require 4,000 service units of water and wastewater from the City. At the time of execution of this Agreement, City anticipates that it will have sufficient water and wastewater capacity to serve the Project. City further acknowledges

that its approval of any subdivision plat of property within the Project shall constitute a representation by the City that it has sufficient water and wastewater capacity available to serve the platted lots at the time of plat approval.

B. All water and wastewater infrastructure required to serve the Project shall be designed and built to the City's construction standards and in conformance with all rules, regulations and ordinances related to the construction and extension of water and wastewater utilities in effect at the time of submittal of construction plans and shall be subject to review and inspection by the City prior to acceptance.

C. The property owner/developer shall be responsible for the payment of all costs associated with the extension and improvements of infrastructure required to properly serve the development of the Property, which costs may be financed through the PID described in Section 1.05.B below. Prior to the acquisition of any off-site easements or rights-of-way the proposed utility alignments shall be approved by the City. The Owner is responsible for the acquisition of all necessary easements to serve the proposed development. In the event the Owner is unable to acquire an easement through reasonable commercial efforts the Owner may request the assistance of the City. Within 30 days of the receipt of a written request from the Owner, the City will commence an effort, exercising all powers available to the City as a Home Rule municipality, to acquire the necessary easements. The City will direct the work of an acquisition team, acceptable to the City and the Owner, contracted and paid by the Owner, in order to acquire the necessary easements.

D. Notwithstanding the foregoing, nothing herein shall be construed to prohibit the parties and/or adjacent developments or subdivisions from mutually agreeing to cost participate or oversize reimbursement on specifically defined infrastructure in accordance with applicable City and State requirements for such participation or reimbursement.

E. To ensure a high quality, attractive development, where feasible, all utility infrastructure, including but not limited to water, wastewater and electrical infrastructure, for the Project shall be placed underground. All utility appurtenances that are required to be above ground may be placed above ground as necessary to serve the development of the Property. All extensions shall be made in a public utility easement or public right-of-way (ROW).

F. The Owner hereby requests and supports the City expanding its water and wastewater Certificate of Convenience and Necessity areas as necessary to serve the development of the Project.

G. The City hereby acknowledges that the County authorized the creation of a Public Improvement District ("PID") on approximately 2,029 acres of the Property (the "Existing PID") on September 23, 2014, pursuant to a County Resolution adopted pursuant to Chapter 372 of the Local Government Code (the "Existing PID Resolution"). If the Owner submits a petition to the County requesting that all or any portion of the remainder of the Property be added to the Existing PID or that a new PID be created for such portion of the remainder of the Property, the City hereby agrees to not oppose such petition.

H. The City hereby recognizes and acknowledges that oversizing of infrastructure improvements may be necessary to accommodate future growth and development of adjacent properties. In the event that oversizing is determined to be appropriate, the City shall enter into an agreement with the Owner in accordance with Section 7.1.3.1 of the Land Development Code.

I. The City and the County are willing to consider Chapter 380 and Chapter 381 economic development incentive agreements for the commercial portions of the Project. The terms, conditions, and amount of any incentive agreements shall be determined by separate agreement of the City, County, Owner, and/or applicable third parties.

J. Street Standards. All streets and roads within the Property shall be designed and constructed in conformance with the design guidelines and cross sections adopted by the City of San Marcos in accordance with Context Sensitive Street Design Standards. Alternative street design standards and cross sections for all streets may be utilized upon review and approval by the City and County Directors of Development Services at the time of detailed engineering and platting. Any decision of the City and County Directors of Development Services may be appealed to the Planning and Zoning Commission and the County Commissioners Court.

1.06 Impervious Cover

The maximum allowable impervious cover for the Property ("Permitted Maximum Allowable Property Impervious Cover") shall be 19% of the 2,552.379 acres of the gross area of the Property (which gross area expressly includes the 700.2 acres of gross area of the Conservation Habitat (RHCP) Preserve, and the 91.5 acres of additional Purgatory Creek Open Space shown on the Conceptual Land Use Plan attached hereto as **Exhibit "B"**, regardless of whether Owner conveys a perpetual conservation or other easement or fee simple title to any portion of such areas to the City, the County, or any other governmental entity or conservation organization). The total Permitted Maximum Allowable Property Impervious Cover may be distributed throughout the Property or may be clustered as necessary provided that the total impervious cover on the 2,552.379 acres of the gross area of the Property does not exceed the Permitted Maximum Allowable Property Impervious Cover. If any portion of the Property is used for the right-of-way for Centerpoint Road, then the gross area of such portion of the Property and any impervious cover placed on such portion of the Property shall be excluded from all impervious cover calculations with respect to the remainder of the Property.

Clustering Incentives in accordance with Section 5.2.8 of the City's LDC may be utilized within the Property subject to the City's approval of a Qualified Watershed Protection Plan Phase 1 and shall be subject to review and approval of all applicable City of San Marcos permits including Watershed Protection Plans, Site Preparation Permits and Environmental and Geologic Assessments and shall be subject to all City of San Marcos and TCEQ regulations for buffering and protection of sensitive features, if any such features are identified on the Property.

1.07 Environmental, Water Quality & Detention Standards

The development of the Property shall comply with Chapter 5 of the Land Development Code as amended on March 4, 2014 and the associated City of San Marcos Storm Water Technical Manual; provided, however, that development of the Additional Property shall comply with Chapter 6 of the Land Development Code as amended on April 17, 2018; provided, further, that development of any portion of the Property for Film and Television Production Facilities Uses shall comply with Chapter 6 of the Land Development Code as amended on September 1, 2020, as supplemented and modified by those development standards set forth on **Exhibit "D"** attached hereto. No portion of the Project shall contain concrete storm water detention boxes. Development of the Property will adhere to a standard for removal of a minimum of 85% of the increase in Total Suspended Solids (TSS) after full development of the Property over the baseline existing conditions before development of the Property. The 85% TSS removal may be accomplished utilizing traditional best management practices (BMP's), approved low-impact development (LID) practices, or a combination thereof. All BMP's shall be designed and maintained by the Owner to achieve the performance standard of 85% TSS removal. BMP's for treatment and detention of stormwater proposed for development of this Property may include, but shall not be limited to traditional BMP's such as detention ponds, grass-lined swales, rain gardens, bioswales, biofiltration ponds and native drought-tolerant plants for landscaping or non-traditional, innovative BMP's. The technical design of traditional BMP's shall be in accordance with the City of San Marcos Storm Water Technical Manual. The use of innovative or non-traditional BMP's shall be approved by the City and used within the Property when accompanied by supporting documentation (i.e. product research / testing or acceptance from other jurisdictions) illustrating the effectiveness of the BMP's in achieving treatment standards identified herein. The technical design of innovative or non-traditional BMP's shall be in accordance with supplied supporting documentation. Approved vegetative buffers and filters shall not include invasive species.

Low Impact Development (LID) techniques allow for greater development potential with less environmental impacts through the use of smarter designs and advanced technologies that achieve a better balance between conservation, growth, ecosystem protection, public health, and quality of life. Where feasible and practical to achieve maximum water quality standards, the development within the Property may incorporate various LID techniques, in one form or another, that work in conjunction with traditional BMP's to achieve 85% TSS removal.

Development of the Property may incorporate pervious paving materials such as pervious pavers, pervious concrete (grasscrete or ecocrete) or other pervious paving materials where appropriate. For pervious paving materials used, technical documentation demonstrating the pervious nature of the specific system or systems as installed shall be provided and approved by the City. In the event that City approved pervious paving materials are utilized, the development of the Property shall receive credit towards the Permitted Maximum Allowable Impervious Cover.

During the construction process, stabilization and protection measures shall be utilized to limit site disturbance to the construction perimeter (the limits of construction). The type and adequacy of the erosion and sedimentation controls shall be subject to approval of the Director of Development Services prior to installation. All erosion and sedimentation controls shall be monitored and maintained at all times during the construction process. A combination of various approved erosion and sedimentation control measures will be implemented where appropriate.

Discharge of sediment from the construction site shall be minimized and controlled as per applicable City, State and Federal requirements. It shall be the responsibility of the Owner and its contractors to clean up any discharge of sedimentation from the Property. No construction shall begin until all required City Plans are approved and a stormwater pollution prevention plan (SWPPP) is produced by the Owner and approved by the City. An erosion and sedimentation control program shall include construction sequencing and sedimentation/erosion control measures to be implemented during construction. The type and adequacy of the erosion and sedimentation controls shall be subject to City approval prior to installation. All erosion and sedimentation controls shall be monitored and maintained at all times during the construction process, and shall be inspected on an appropriate frequency, as specified in the SWPPP, and results shall be available for inspection by the City at all times.

A full Water Pollution Abatement Plan (WPAP) including a geologic assessment and geotechnical report, prepared by a licensed third-party engineer and/or professional geologist selected by the Owner and approved by the City of San Marcos Director of Engineering and Capital Improvements, shall be provided by the Owner and approved by the City, prior to the approval of any final plat on the Property or any portion thereof. The WPAP documents shall include construction sequencing and detailed means and methods for drainage and sedimentation/erosion control measures to be implemented during construction. The type and adequacy of the erosion and sedimentation controls shall be subject to City approval prior to installation. All erosion and sedimentation controls shall be monitored and maintained at all times during the construction process, and shall be inspected on an appropriate frequency (as specified in the approved WPAP) by a qualified, third-party engineering inspector, and results shall be provided to the City following each inspection.

A maintenance agreement for the permanent BMPs on the Property written according to Sections 5.1.1.7 and 5.1.1.8 of the LDC shall be submitted. The maintenance agreement shall include provisions for testing and monitoring BMPs to make sure required volumes and other characteristics are still intact as originally designed. An easement for inspection and monitoring purposes in favor of an in a form acceptable to the City must be provided by the property owner.

1.08 Parkland and Open Space Dedication

A. In the event the Property is fully built out (i.e., the maximum 2,800 units under Section 1.04B is achieved across the entire property), the maximum total required parkland dedication shall be 35.64 acres. The development of the Property will meet or exceed all applicable parkland dedication requirements of the City. Except as may otherwise be permitted by the City, dedication of all or any portion of the required parkland shall occur in conjunction with the final plat on all or any portion of the Property.

B. All parkland, open space, sidewalks and trails, and designated amenities that are not owned and maintained by the Homeowners Association shall be open and available to the public, subject to any applicable rules and regulations of the U.S. Fish and Wildlife Service and the

RHCP. Access to the parkland and open space shall be provided at the time of subdivision platting.

C. In addition to the required public parkland dedication amount indicated above, a variety of private active and passive recreational facilities ranging from small neighborhood pocket parks to larger improved common areas or parks are envisioned. These facilities shall be connected through a pedestrian network consisting of sidewalks and/or trails. The Project's network of trails will be approximately 10-14 miles and provide connectivity to the Purgatory Creek Natural Area with a small parking area at such time and in such location as determined by Owner and City.
   1. The minimum width for a sidewalk shall be six feet (6').
   2. Sidewalks shall be constructed of concrete or asphalt.
   3. Sidewalks may be located adjacent to the street right-of-way and incorporated into an appropriate street cross-section.
   4. The minimum width for a trail shall be eight feet (8').
   5. Trails may be constructed of concrete, asphalt, crushed granite, or other material common in trail construction.
   6. Trails may be located adjacent to the street right-of-way and be incorporated as part of an alternative street cross-section upon the approval by the Director of Development Services or may be constructed in open space areas or improved common areas.
   7. The location of sidewalks and trails shall be determined at the time of preliminary platting and development of infrastructure construction plans and shall be included as part of a Subdivision Improvement Agreement.

1.09 Deed Restrictions and Creation of Homeowner's Association

The Owner shall create a homeowner's association responsible for, among other things, enforcement of deed restrictions required under this Agreement. The homeowner's association shall be created and deed restrictions recorded before commencement of any development on all or any portion of the Property. The deed restrictions shall be submitted to the City for review to determine consistency with this Agreement before recording. The homeowner's association shall be duly authorized, under applicable laws, to enforce the deed restrictions against all owners and developers of land within the Property. Any deed restrictions, and amendments thereto, regulating development of the Property shall be recorded in the Official Public Records of Hays County, Texas. Any deed restrictions regulating development of the Property, and any amendments thereto, shall be subject to this Agreement. Such deed restrictions shall further include a statement that they are subject to this Agreement and that, in the event of a conflict between the deed restrictions and this Agreement, this Agreement shall govern.

1.10 Hays County Regional Habitat Conservation Plan & Endangered Species Act

Prior to any development activity as defined in the City's LDC, the Owner shall comply with the Endangered Species Act, specifically related to the golden-cheeked warbler or black-capped vireo, by either obtaining approvals from the U.S. Fish and Wildlife Service or through voluntary participation in the Hays County Regional Habitat Conservation Plan ("RHCP").

SECTION 2: MISCELLANEOUS PROVISIONS

2.01 Term

A. This Agreement shall commence and bind the Parties on the Effective Date and continue until all of the Property has been annexed for full purposes by the City (the "Term"), unless sooner terminated as provided in Section 2.01.C below. If, however, no progress toward completion of the Project, as defined under Section 245.005 of the Texas Local Government Code, is made within five (5) years of the date of this Agreement, this Agreement shall expire and Owner hereby agrees that any development of the Property shall comply with the ordinances in effect at the time the first plat application for any portion of the property is filed. This written Agreement may be extended for additional terms as allowed by law upon mutual written

agreement of the parties.

B. After the expiration or termination of this Agreement, this Agreement will be of no further force and effect.

C. This Agreement may be terminated or amended as to all or any portion of the Property at any time by mutual written agreement between the City and Owner.

2.02 Authority

This Agreement is entered into, in part, under the statutory authority of Section 212.172 of the Texas Local Government Code and the applicable provisions of the Texas Constitution and the laws of the State of Texas. By virtue of this Agreement, Owner agrees to authorize the full purpose annexation of the Property by the City subject to applicable provisions of Chapter 43 of the Texas Local Government Code and in accordance with the terms and conditions set forth in this Agreement.

2.03 Equivalent Substitute Obligation

If any Party is unable to meet an obligation under this Agreement due to a court order invalidating all or a portion of this Agreement, preemptive state or federal law, an imminent and bona fide threat to public safety that prevents performance or requires different performance, changed circumstances or subsequent conditions that would legally excuse performance under this Agreement, or any other reason beyond the Party's reasonable and practical control, the Parties will cooperate to revise this Agreement to provide for an equivalent substitute right or obligation as similar in terms to the illegal, invalid, or unenforceable provision as is possible and is legal, valid and enforceable, or other additional or modified rights or obligations that will most nearly preserve each Party's overall contractual benefit under this Agreement.

2.04 Cooperation

The Parties agree to execute and deliver all such other and further documents or instruments and undertake such other and further actions as are or may become necessary or convenient to effectuate the purposes and intent of this Agreement.

2.05 Litigation

In the event of any third-party lawsuit or other claim relating to the validity of this Agreement or any action taken by the Parties hereunder, Owner and the City agree to cooperate in the defense of such suit or claim, and to use their respective best efforts to resolve the suit or claim without diminution of their respective rights and obligations under this Agreement, but only to the extent each party determines, in its sole discretion, that its interests are aligned or not in conflict with the other party's interests. The filing of any third-party lawsuit relating to this Agreement or the development of the Property will not delay, stop, or otherwise affect the development of the Property or the City's processing or issuance of any approvals for the development of the Property, unless otherwise required by a court of competent jurisdiction. The City agrees not to stipulate or agree to the issuance of any court order that would impede or delay the City's processing or issuance of approvals for the development of the Property.

2.06 Default

Notwithstanding anything herein to the contrary, no Party shall be deemed to be in default hereunder until the passage of thirty (30) business days after receipt by such party of notice of default from the other Party. Upon the passage of thirty (30) business days without cure of the default, such Party shall be deemed to have defaulted for all purposes of this Agreement. In the event of a non-cured default, the non-defaulting Party shall have all the rights and remedies available under applicable law, including the right to institute legal action to cure any default, to enjoin any threatened or attempted violation of this Agreement, or to enforce the defaulting Party's obligations under this Agreement by specific performance. Nothing herein shall prevent the Parties from extending the above specified time frames for default and/or cure by mutual written agreement.

2.07 Governmental Powers; Waiver of Immunity

It is understood that by execution of this Agreement the City does not waive or surrender any of its governmental powers, immunities or rights.

2.08 Governing Law and Venue

The City and Owner agree that this Agreement has been made under the laws of the State of Texas in effect on this date, and that any interpretation of this Agreement at a future date shall be made under the laws of the State of Texas. The City and the Owner further agree that all actions to be performed under this Agreement are performable in Hays County, Texas.

2.09 Attorney's Fees

If any action at law or in equity, including an action for declaratory relief, is brought to enforce or interpret the provisions of this Agreement, the prevailing Party shall be entitled to recover reasonable attorney's fees from the other Party. The amount of fees recoverable under this paragraph may be set by the court in the trial of the underlying action or may be enforced in a separate action brought for that purpose, and any fees recovered shall be in addition to any other relief that may be awarded.

2.10 Entire Agreement

This Agreement, together with any exhibits attached hereto, constitutes the entire agreement between the Parties and supersedes any prior or contemporaneous written or oral understandings or representations of the Parties with respect to this Agreement, including superseding the Existing Development Agreement.

2.11 Exhibits/Amendment

All exhibits attached to this Agreement are incorporated by reference and expressly made part of this Agreement as if copied verbatim. This Agreement may be amended only by mutual agreement of the Parties and in accordance with the applicable procedures outlined in Section 1.4.2.6(c) the City's LDC.

2.12 Severability

If any section, subsection, sentence, clause, phrase, paragraph, part or provision of this Agreement be declared by a court of competent jurisdiction to be invalid, illegal, unconstitutional or unenforceable in any respect, such unenforceability, unconstitutionality, illegality or invalidity shall not affect any of the remaining sections, subsections, sentences, clauses, phrases, paragraphs, parts or provisions of this Agreement as a whole, or in any part, since the same would have been enacted by the City Council without the incorporation in this Agreement of any such invalid, illegal, unconstitutional or unenforceable section, subsection, sentence, clause, phrase, paragraph, part or provision.

2.13 Interpretation

Wherever required by the context, the singular shall include the plural, and the plural shall include the singular.

2.14 Notice

Any notice, request or other communication required or permitted by this Agreement shall be in writing and may be affected by overnight courier or hand delivery, or by sending said notice by registered or certified mail, postage prepaid, return receipt requested, and addressed to the Parties as set forth below. Notice shall be deemed given when deposited with the United States Postal Service with sufficient postage affixed.

Any notice mailed to the City shall be addressed to:

City Manager
City of San Marcos

630 E. Hopkins Street
San Marcos, Texas 78666

Any notice mailed to the County shall be addressed to:

Director of Development Services
Hays County
2171 Yarrington Road
San Marcos, TX 78666

Any notice mailed to LOR, LCSM Ph. 1-1, LCSM Ph.1-2, LSCM Ph. 2, LCSM Ph. 3, LCSM Ph. 4, La Cima Commercial, LCSM WW or LCSM West shall be addressed to:

c/o Dubois, Bryant & Campbell, LLP
Attn: Mr. Bryan W. Lee, Manager
303 Colorado, Suite 2300
Austin, Texas 78701

2.15 Force Majeure
Owner and the City agree that the obligations of each party shall be subject to force majeure events such as natural calamity, fire or strike.

2.16 Assignment
As of the Effective Date, Owner owns the Property. Owner may assign its rights and obligations under this Agreement to any third party (ies) only after providing written notice of assignment to the City. The terms of this Agreement shall be covenants running with the land and binding on successors and assigns.

2.17 Signatures
The City represents that this Agreement has been approved and duly adopted by the City Council of the City in accordance with all applicable public meeting and public notice requirements including, but not limited to, notices required by the Texas Open Meetings Act, and that the individual executing this Agreement on behalf of the City has been authorized to do so. Owner represents and warrants that this Agreement has been approved by appropriate action of Owner and that the individual executing this Agreement on behalf of Owner has been authorized to do so.

2.18 Successors and Assigns and Recordation
The terms of this Agreement shall be covenants running with the land and binding on successors and assigns. Pursuant to the requirements of Section 212.172(f), Local Government Code, this Agreement shall be recorded in the official public records of Hays County, Texas. The terms of this Agreement shall be binding upon: (a) the Parties; (b) the Parties' successors and assigns; (c) the Property; and (d) future owners of all or any portion of the Property. Notwithstanding the foregoing, however, this Agreement shall not be binding upon, and shall not constitute any encumbrance to title as to, any end-buyer of a fully developed and improved lot within the Property except for land use and development regulations within this Agreement that apply to specific lots, including architectural, environmental and water quality, landscaping and setback and dimensional standards, and impervious cover limits, together with applicable rights of enforcement in this Agreement as to such land use and development regulations.

2.19 Counterpart Originals
This Agreement may be executed in counterparts, each of which shall be deemed to be an original.

[*Signature Page Follows*]

EXECUTED to be effective as of the Effective Date first stated above.

CITY OF SAN MARCOS, TEXAS

By: _____
Name:
Title:

HAYS COUNTY, TEXAS

By: _____
Name:
Title:

LAZY OAKS RANCH, LP, a Texas Limited Partnership

By: Lazy Oaks GP, LLC, its general partner

By: _____
Bryan W. Lee
Its: Manager

LCSM PH. 1-1, LLC, a Texas Limited Liability Company

By: _____
Name: Bryan W. Lee
Title: Manager

LCSM PH. 1-2, LLC, a Texas Limited Liability Company

By: _____
Name: Bryan W. Lee
Title: Manager

LCSM PH. 2, LLC, a Texas Limited Liability Company

By: _____
Name: Bryan W. Lee
Title: Manager

LCSM PH. 3, LLC, a Texas Limited Liability Company

By: _____
Name: Bryan W. Lee
Title: Manager

LCSM PH. 4, LLC, a Texas Limited Liability Company

By: _____
Name: Bryan W. Lee
Title: Manager

LA CIMA COMMERCIAL, LP, a Texas Limited Partnership

By: La Commercial GP, LLC, its general partner

By: _____
Name: Bryan W. Lee
Title: Manager

LCSM WW, LLC, a Texas Limited Liability Company

By: _____
Name: Bryan W. Lee
Title: Manager

LCSM WEST, LP, a Texas Limited Partnership

By: LCSM West GP, LLC, its general partner

By: _____
Name: Bryan W. Lee
Title: Manager

Acknowledgements

STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on _____, ~~2021~~2022, by Bryan W. Lee, Manager, of Lazy Oaks GP, LLC, general partner of Lazy Oaks Ranch, L.P., a Texas Limited Partnership, in such capacity, on behalf of said entities.

_____
Notary Public, State of Texas

STATE OF TEXAS §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on _____, ~~2021~~2022, by Bryan W. Lee, Manager, of LCSM Ph. 1-1, LLC, a Texas Limited Liability Company, in such capacity, on behalf of said entities.

_____
Notary Public, State of Texas

STATE OF TEXAS §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on _____, ~~2021~~2022, by Bryan W. Lee, Manager, of LCSM Ph. 1-2, LLC, a Texas Limited Liability Company, in such capacity, on behalf of said entities.

_____
Notary Public, State of Texas

STATE OF TEXAS §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on _____, ~~2021~~2022, by Bryan W. Lee, Manager, of LCSM Ph. 2, LLC, a Texas Limited Liability Company, in such capacity, on behalf of said entities.

_____
Notary Public, State of Texas

STATE OF TEXAS §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on _____, ~~2021~~2022, by Bryan W. Lee, Manager, of LCSM Ph. 3, LLC, a Texas Limited Liability Company, in such capacity, on behalf of said entities.

_____
Notary Public, State of Texas

STATE OF TEXAS §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on _____, ~~2021~~2022, by Bryan W. Lee, Manager, of LCSM Ph. 4, LLC, a Texas Limited Liability Company, in such capacity, on behalf of said entities.

_____
Notary Public, State of Texas

STATE OF TEXAS §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on _____, ~~2021~~2022, by Bryan W. Lee, Manager, of La Cima Commercial GP, LLC, general partner of La Cima Commercial, LP, a Texas Limited Partnership, in such capacity, on behalf of said entities.

_____
Notary Public, State of Texas

STATE OF TEXAS §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on _____, ~~2021~~2022, by Bryan W. Lee, Manager, of LCSM WW, LLC, a Texas Limited Liability Company, in such capacity, on behalf of said entities.

STATE OF TEXAS §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on _____, ~~2021~~2022, by Bryan W. Lee, Manager, of LCSM West GP, LLC, general partner of LCSM West, LP, a Texas Limited Partnership, in such capacity, on behalf of said entities.

_____
Notary Public, State of Texas

STATE OF TEXAS §

§

COUNTY OF HAYS §

This instrument was acknowledged before me on _____, ~~2021~~2022, by _____, City Manager of the City of San Marcos, in such capacity, on behalf of said entity.

_____
Notary Public, State of Texas

STATE OF TEXAS §

§

COUNTY OF HAYS §

This instrument was acknowledged before me on _____, ~~2021~~2022, by _____, _____ of Hays County, in such capacity, on behalf of said entity.

_____
Notary Public, State of Texas

Document comparison by Workshare 10.0 on Wednesday, January 5, 2022 6:35:44 PM

Input:	
Document 1 ID	iManage://dbcllp-mobility.imanage.work/IMANAGE/3493291/1
Description	#3493291v1<dbcllp-mobility.imanage.work> - La Cima Fifth Amended and Restated Development Agreement Final 10-20-2021
Document 2 ID	iManage://dbcllp-mobility.imanage.work/IMANAGE/3518070/1
Description	#3518070v1<dbcllp-mobility.imanage.work> - La Cima Sixth Amended and Restated Development Agreement Final 11-29-21
Rendering set	Standard

Legend:	
Insertion	
~~Deletion~~	
~~Moved from~~	
Moved to	
Style change	
Format change	
~~Moved deletion~~	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	34
Deletions	20
Moved from	0
Moved to	0
Style change	0

Format changed	0
Total changes	54

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Authorize the County Judge to execute an Agreement between Hays County and The Bug Master for pest control services for the Public Safety Building (PSB) and the Uhland Road Jail Complex.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
CONSENT	January 18, 2022	$1,275 onetime fee, $600 reoccurring

LINE ITEM NUMBER

Jail: 001-618-03.5451 $1,075 onetime fee, $400 reoccurring service
PSB: 001-695-00.5448 $200 onetime fee, $200 reoccurring service

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: YES **AUDITOR REVIEW:** MARISOL VILLARREAL-ALONZO

REQUESTED BY	SPONSOR	CO-SPONSOR
T. CRUMLEY/CUTLER	BECERRA	N/A

SUMMARY

Building Maintenance is currently under agreement with The Bug Master for the pest control services for all other Hays County Buildings, and we would like to add the PSB and the Uhland Road Jail Complex to our agreement with The Bug Master. Under the agreement, services will be performed quarterly and will also be available on an as needed basis.

Attachment:
The Bug Master Agreement

Visit **portal.thebugmaster.com** to log into your account and pay online. You will need the following information:

Your Account #: 217880

Your Email: chris.deichmann@co.hays.tx.us

General Pest Control Service Agreement

Service Type

Pest Prevention

Location Information

Location Name
Jail

Service Address
1309 Uhland Road

Service City
San Marcos

State TX Zip 78666

Email
chris.deichmann@co.hays.tx.us

Phone
(512) 939-7659

Secondary Phone

Billing Information

Same As Location Information

Bill To Name
Hays CountyHays County

Address
712 South Stagecoach Trail

City
San Marcos

State TX Zip 78666

Email
chris.deichmann@co.hays.tx.us

Phone
(512) 393-7659

Secondary Phone

Service and Warranty Information

Call/Text Chris when on the way - (512) 393-7659
Areas A, B, C, D and exterior perimeter. Service also includes the training portables (Annex 1 & 2).

Treating interior storage/training rooms, hallways, pipe chases in old and new housing areas, arresting officer station, kitchen, officer dining, laundry, and intake room.
Install 30 exterior rodent bait stations around perimeter. Stations are to be cleaned and maintained on each maintenance service.

Initial service for pest prevention program. One year service agreement from initial service.
Pest prevention service performed approximately every 90 days.

Establish and maintain up to a 10 ft a treated perimeter of structure to prevent pest entry.
Covered pests: Ants, Spiders, Roaches, and Scorpions
Warranty: Full warranty for all covered pests between scheduled services for the duration of the agreement.

Terms · Payment Arrangements

One-Time Setup Total	Recurring Total
$ $1,075.00	$ $400.00
Tax	Tax
~~$ $88.69~~ *Tax Exempt*	~~$ $33.00~~
Total	**Total**
~~$ $1,163.69~~	~~$ $433.00~~

Service Agreement Guarantee and Acceptance

This agreement is effective as of the date below and continues for a period of 12 months ("Initial Term"). After the Initial Term, this agreement automatically renews for additional 12 month periods (each a "Renewal Term") unless notice of non-renewal is provided by either party in writing not less than 30 days from the end of the then-current Initial Term or Renewal Term as applicable. Unless otherwise expressly provided herein, amounts due under this agreement are non-cancellable and non-refundable.

Customer Signature

Print Name

Date 01/12/2022

TPCL # 4211
1912 Smith Rd, Austin, TX 78721
Phone (512) 250-1500

TPCL # 4211 C
3128 Thornton Ln, Temple, TX 76502
Phone (254) 939-4458

Visit **portal.thebugmaster.com** to log into your account and pay online. You will need the following information:

Your Account #: 217880

Your Email: chris.deichmann@co.hays.tx.us

General Pest Control Service Agreement

Service Type

Pest Prevention

Location Information

Location Name
Public Safety Building

Service Address
810 South Stagecoach Trail

Service City
San Marcos

State TX Zip 78666

Email
chris.deichmann@co.hays.tx.us

Phone
(512) 393-7659

Secondary Phone

Billing Information

Same As Location Information

Bill To Name
Hays CountyHays County

Address
712 South Stagecoach Trail

City
San Marcos

State TX Zip 78666

Email
chris.deichmann@co.hays.tx.us

Phone
(512) 393-7659

Secondary Phone

Service and Warranty Information

Call/Text Chris when on the way - (512) 393-7659

Initial service for pest prevention program. One year service agreement from initial service.
Pest prevention service performed approximately every 90 days.
Establish and maintain up to a 10 ft a treated perimeter of structure to prevent pest entry.
Interior service includes Main Lobby, Interior Stairway Exits, Break Room, Evidence Room (Intake, Storage Rooms, and Garage). Treat around the base of the racks in the storage area (DO NOT TREAT STORED ITEMS).
Webster spiderwebs from around the stored items on the racks.
Covered pests: Ants, Spiders, Roaches, and Scorpions
Warranty: Full warranty for all covered pests between scheduled services for the duration of the agreement.

Terms · Payment Arrangements

One-Time Setup Total		Recurring Total
$ $200.00		$ $200.00
Tax	*Tax Exempt*	Tax
~~$ $16.50~~		~~$ $16.50~~
Total		**Total**
~~$ $216.50~~		~~$ $216.50~~

Service Agreement Guarantee and Acceptance

This agreement is effective as of the date below and continues for a period of 12 months ("Initial Term"). After the Initial Term, this agreement automatically renews for additional 12 month periods (each a "Renewal Term") unless notice of non-renewal is provided by either party in writing not less than 30 days from the end of the then-current Initial Term or Renewal Term as applicable. Unless otherwise expressly provided herein, amounts due under this agreement are non-cancellable and non-refundable.

Customer Signature

Print Name

Date 11/10/2021

TPCL # 4211
1912 Smith Rd, Austin, TX 78721
Phone (512) 250-1500

TPCL # 4211 C
3128 Thornton Ln, Temple, TX 76502
Phone (254) 939-4458

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Approve renewal of IFB 2020-B04 Concrete with Brauntex Materials and Lauren Concrete.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
CONSENT	January 18, 2022	

LINE ITEM NUMBER

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: YES **AUDITOR REVIEW:** MARISOL VILLARREAL-ALONZO

REQUESTED BY	SPONSOR	CO-SPONSOR
Jerry Borcherding	BECERRA	N/A

SUMMARY

IFB 2020-B04 is scheduled to expire on January 27, 2022. Both contracted vendors would like to renew their contracts for one additional year. Lauren Concrete has proposed price changes, shown on the attached renewal bid tab.

Attached:
IFB 2020-B04 Brauntex Materials Renewal
IFB 2020-B04 Lauren Concrete Renewal
Renewal Bid Tab

OFFICE OF THE COUNTY AUDITOR

Hays County Purchasing
712 S. Stagecoach Trail, Ste. 1071
San Marcos, Texas 78666
512-393-2273

Marisol Villarreal-Alonzo, CPA
County Auditor
marisol.alonzo@co.hays.tx.us

Vickie G. Dorsett
Assistant County Auditor
vickie.dorsett@co.hays.tx.us

December 29, 2021

Brauntex Materials, Inc.
PO Box 312622
New Braunfels, TX 78131

RE: Annual contract renewal

The annual contract for Concrete, IFB 2020-B04 is scheduled to expire on January 27, 2022. This letter will serve as official notice that Hays County would like to exercise its second (2nd) option to renew the existing contract for one (1) additional year effective January 28, 2022-January 27, 2023, provided all terms and conditions remain unchanged and in full force and effect as provided in the current contract. If you are in agreement with the renewal terms, please acknowledge below and return one original to the Hays County Purchasing Office at the address listed above. Upon approval by the Hays County Commissioners Court, a fully executed copy will be returned to you for your files.

Please email purchasing@co.hays.tx.us if you wish to make modifications to the contract or have any questions. Thank you.

Sincerely,

Marisol Villarreal-Alonzo, CPA
Hays County Auditor

Signature	Brauntex Materials, INC. Company
Austin Deen Printed Name	1/12/2022 Date

Approved by the Hays County Commissioners Court on: _____

Ruben Becerra
Hays County Judge

OFFICE OF THE COUNTY AUDITOR

Hays County Purchasing
712 S. Stagecoach Trail, Ste. 1071
San Marcos, Texas 78666
512-393-2273

Marisol Villarreal-Alonzo, CPA
County Auditor
marisol.alonzo@co.hays.tx.us

Vickie G. Dorsett
Assistant County Auditor
vickie.dorsett@co.hays.tx.us

January 12, 2021

Lauren Concrete, Inc.
2001 Picadilly
Round Rock, TX 78664

RE: Annual contract renewal

The annual contract for Concrete, IFB 2020-B04 is scheduled to expire on January 27, 2022. Hays County has received your request for the attached price changes for the coming year. This letter will serve as official notice that Hays County would like to exercise its second (2nd) option to renew the existing contract for one (1) additional year effective January 28, 2022-January 27, 2023, provided all other terms and conditions remain unchanged and in full force and effect as provided in the current contract with the attached proposed price changes. If you are in agreement with the renewal terms, please acknowledge below and return one original to the Hays County Purchasing Office at the address listed above. Upon approval by the Hays County Commissioners Court, a fully executed copy will be returned to you for your files.

Please email purchasing@co.hays.tx.us if you wish to make modifications to the contract or have any questions. Thank you.

Sincerely,

Marisol Villarreal-Alonzo, CPA
Hays County Auditor

Brian Replogle
Signature

Lauren Concrete, Inc.
Company

Brian Replogle
Printed Name

January 12, 2022
Date

Approved by the Hays County Commissioners Court on: _____

Ruben Becerra
Hays County Judge

IFB 2020-B04 Concrete
MATERIALS BY DELIVERY AREA

Contract Item Number	Item Number	Description	Estimated Quantity (+/-)	Unit of Measure	Bid Price Per Unit											
					Delivery Area 1			Delivery Area 2			Delivery Area 3			Delivery Area 4		
					Brauntex Materials	Lauren Concrete (org. Price)	Lauren Concrete (New Price)	Brauntex Materials	Lauren Concrete (org. Price)	Lauren Concrete (New Price)	Brauntex Materials	Lauren Concrete (org. Price)	Lauren Concrete (New Price)	Brauntex Materials	Lauren Concrete (org. Price)	Lauren Concrete (New Price)
B04.1	TXDOT Item 421 Hydraulic Cement Concrete	PSI 3000 Class A	500	cubic yards	no bid	$ 110.00	$ 112.00	no bid	$ 115.00	$ 112.00	$ 109.00	$ 110.00	$ 112.00	$ 109.00	$ 113.00	$ 112.00
B04.2	TXDOT Item 421 Hydraulic Cement Concrete	PSI 3600 Class C	500	cubic yards	no bid	$ 115.00	$ 116.50	no bid	$ 120.00	$ 116.50	$ 112.00	$ 115.00	$ 116.50	$ 112.00	$ 118.00	$ 116.50
B04.3	Hydraulic Cement Concrete	PSI 4500	500	cubic yards	no bid	$ 116.00	$ 119.00	no bid	$ 121.00	$ 119.00	$ 119.00	$ 116.00	$ 119.00	$ 119.00	$ 119.00	$ 119.00
B04.4	TXDOT Item 401 Flowable Backfill	80-150 PSI	500	cubic yards	no bid	$ 91.00	$ 94.00	no bid	$ 96.00	$ 94.00	$ 89.00	$ 91.00	$ 94.00	$ 89.00	$ 94.00	$ 94.00

ADDITIONAL CHARGES

		Brauntex Materials	Lauren Concrete
B04.5	Straight Cement (when fly ash is not available)	$3.00/yard ~~per sack~~	$ 1.00 per sack
B04.6	Flat Fee for Short Load	$ 300.00	$ 100.00
	Fee applies to orders less than:	3 cubic yards	6 cubic yards

denotes primary vendor

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Authorize the County Judge to execute a Contract Amendment with Waste Connections Lone Star, Inc. pursuant to IFB 2021-B12 Countywide Dumpsters.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
CONSENT	January 18, 2022	

LINE ITEM NUMBER

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: YES **AUDITOR REVIEW:** MARISOL VILLARREAL-ALONZO

REQUESTED BY	SPONSOR	CO-SPONSOR
Tammy Crumley	BECERRA	N/A

SUMMARY

On December 7, 2021 the Commissioners Court awarded a contract to Waste Connections Lone Star, Inc. pursuant to IFB 2021-B12 Countywide Dumpsters. The Precinct 4 Office in Dripping Springs was not included in the original solicitation and the County has acquired the new Elections Building that will need dumpster service.

Countywide Operations is requesting to add the Precinct 4 Office, as well as the new Election Building located at 120 S. Stagecoach Trail, San Marcos. The pricing is as follows:

Precinct 4 Office: 4-yard dumpster (1 haul per week) $19.50/haul
Elections Building: 4-yard dumpster (2 hauls per week) $18.05/haul

Attached:
Amendment 1 to Contract: Waste Connections Lone Star, Inc.

First Amendment to the Countywide Dumpster Contract (IFB 2021-B12 Countywide Dumpster Contract)

1. This First Amendment to the Countywide Dumpster Contract (the "First Amendment"), attached as *Exhibit "A"* and executed December 7, 2021, is made this 12th day of January 2022, by and between **Hays County, Texas ("Client")** and **Waste Connections Lone Star, Inc. ("Contractor")**. The above-cited parties are collectively referred to as "the parties to this Agreement" or "the parties."

2. Addition of Locations:

a. Add Precinct 4, 195 Roger Hanks Parkway, Dripping Springs 78620
   - 4-yard dumpster, picked up once per week: $19.50/per haul

b. Add Election Building, 120 Stagecoach Trail, San Marcos, 78666
   - 4-yard dumpster, picked up twice per week: $18.05/per haul

3. Except for the above modifications set forth in this First Amendment, all other terms and conditions of the Agreement shall remain unaffected and shall continue in full force and effect in accordance with its terms.

HAYS COUNTY, TEXAS

By: _____

Printed Name: _____

Title: _____

Dated: _____

Waste Connections Lone Star, Inc.

By: _____

Printed Name: _____

Title: _____

Dated: _____

ATTEST: _____
Elaine Cardenas
Hays County Clerk

Exhibit A
IFB 2021-B12 Countywide Dumpsters Contract

SOLICITATION, OFFER AND AWARD

Hays County Auditor
Purchasing Office
712 S. Stagecoach Trail, Suite 1071
San Marcos, Texas 78666

Solicitation No.: IFB 2021-B12 Countywide Dumpsters	**Date Issued: July 29, 2021**

SOLICITATION

Respondents must submit proposals as listed: one (1) original and one (1) digital copy on a thumb drive at the Hays County Purchasing Office at the address shown above or Electronically through BidNet Direct until:
1:00 p.m. local time August 19, 2021.
Proposals received after the time and date set for submission will be returned unopened.

For information please email: purchasing@co.hays.tx.us	Questions concerning this IFB must be received in writing no later than 5:00 on August 11, 2021.	Phone No.: (512) 393-2283

OFFER (Must be fully completed by Respondent)

In compliance with the above, the undersigned offers and agrees to furnish all items or services awarded at the prices stipulated for each item delivered at the designated point(s) and within the time specified herein. Award shall include all solicitation documents and attachments.

MANUALLY SIGN ALL COPIES SUBMITTED. SIGNATURE IS MANDATORY.

Respondent		Respondent's Authorized Representative	
Entity Name:	Waste Connections Lone Star, Inc.	Name:	Alex Cantu
Mailing Address:	2010 W Interstate 10 Frontage Rd. Seguin, TX 78155	Title:	District Controller
		Email Address:	alex.cantu@wasteconnections.com
		Phone No.:	(504) 481-8979
Signature:		Date:	08/17/21
Name, Email Address and Phone No. of person authorized to conduct negotiations on behalf of Respondent:	Alex Cantu (504) 481-8979 alex.cantu@wasteconnections.com		

NOTICE OF AWARD (To be completed by County)

Funding Source:	Awarded as to item(s):	Contract Amount: $88,159.80
Vendor: 0827	Per bid form	Term of Contract: 1 year w/ 4 (1-year) renewals
This contract issued pursuant to award made by Commissioners Court on:	Date: December 7, 2021	Agenda Item:

Important: Award notice may be made on this form or by other Authorized official written notice.

Hays County Judge — Date: 12/7/21

Hays County Clerk — Date: 12/07/2021

COMMISSIONERS COURT HAYS COUNTY TEXAS

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Attachment A: IFB 2021-B12 Bid Form

Attachment B: FHWA 1273

I. IFB Submittal Checklist

This checklist is provided for the Vendor's convenience and identifies the documents that MUST be submitted for the bid/proposal to be considered responsive, as well as the required forms requested by Hays County.

A COMPLETE SOLICITATION RESPONSE PACKAGE INCLUDES:

The following forms MUST be returned for the bid/proposal to be considered responsive:

✓ 1. Solicitation, Offer and Award Form completed and signed

✓ 2. Mandatory Bid Form: Attachment A

✓ 3. Vendor Reference Form

Required Forms by Hays County:

✓ 1. Conflict of Interest Questionnaire completed and signed

✓ 2. Certificate of Interested Parties

✓ 3. Code of Ethics signed

✓ 4. HUB Practices signed

✓ 5. House Bill 89 Verification signed and notarized

✓ 6. Senate Bill 252 Certification

✓ 7. Debarment & Licensing Certification signed and notarized

✓ 8. Vendor/Bidder's Affirmation completed and signed

✓ 9. Related Party Disclosure Form

✓ 10. Appendix II – 2CFR Part 200

✓ 11. FHWA 1273 Certification

✓ 12. System for Award Management (www.SAM.gov) Entity Registration Page

____ 13. Any addenda applicable to this solicitation

Hays County will accept bids, by the stated due date by one of the following methods:

____ 1. Electronic Submission of Bid Packet through BidNet Direct or

____ 2. One original of the proposal and a digital copy on a thumb drive in a sealed envelope with the Solicitation Number and Vendor's Name on the outermost envelope, addressed to:
Hays County Purchasing
712 S Stagecoach Trail, Suite 1071
San Marcos, TX 78666

II. Summary

1. Type of Solicitation:	Invitation for Bid
2. Solicitation Number:	IFB 2021-B12 Countywide Dumpsters
3. Issuing Office:	Hays County Auditor Purchasing Office 712 S. Stagecoach Trial, Suite 1071 San Marcos, TX 78666
4. Responses to Solicitation:	Sealed proposals marked with Solicitation Number and Vendor Name on the outermost envelope One (1) Original and one (1) digital copy on a thumb drive, or Electronic Bid packets can be submitted through BidNet Direct, no thumb Drive required.
5. Deadline for Responses:	In issuing office no later than: **Thursday, August 19, 2021; 1:00 p.m. Central Time (CT)**
6. Initial Contract Term:	October 1, 2021-September 30, 2022
7. Optional Contract Terms:	Four (4), one-year renewal options
8. Designated Contact:	Hays County Purchasing Email: purchasing@co.hays.tx.us
9. Questions & Answers:	**Questions regarding this solicitation must be made in writing and submitted to the designated contact above no later than August 11, 2021; 5:00 p.m. CT. Telephone inquiries will not be accepted.** Questions may be submitted by email to the address above. Answers to questions will be provided in the form of an addendum posted after the question deadline on the CivicPlus, BidNet Direct, and ESBD websites for the benefit of all potential respondents. The County reserves the right to contact the person submitting a question to clarify the question received, if necessary. Each clarification, supplement, or addenda to this IFB, if any, will be posted on the CivicPlus, BidNet Direct and ESBD websites. All potential or actual respondents are responsible for monitoring the websites for such materials. Respondents are deemed to have notice of, and are required to comply with, any such material posted in accordance with this paragraph. Respondents should not rely upon any other sources of written or oral responses to inquiries.
10. Addenda	Any interpretations, corrections or changes to this IFB and

specifications will be made by addenda. Sole issuing authority of addenda shall be vested in the Hays County Purchasing Office. It is the Respondent's responsibility to acknowledge receipt of all addenda with proposal submission.

11. Contact with County Staff:

Upon issuance of this solicitation, employees and representatives of Hays County, other than the Purchasing Office staff identified as the Designated Contact above, will not discuss the contents of this solicitation with any Respondent or its representatives. Failure of a Respondent or any of its representatives to observe this restriction may result in disqualification of any related offer. This restriction does not preclude discussions between affected parties for the purpose of conducting business unrelated to this procurement.

Anticipated Schedule of Events

July 29, 2021	Issuance of IFB
August 11, 2021	Deadline for Submission of Questions (5:00 PM CT)
August 19, 2021	Deadline for Submission of Proposals (1:00 PM CT) **Late bids will not be accepted.**
October 1, 2021	Anticipated contract award date

III. Specifications

A. Introduction

Hays County issues this Invitation for Bid (IFB) to solicit bids for a vendor to perform dumpster services for multiple locations within Hays County. Listed below are the locations within Hays County seeking immediate services. Note that Hays County has other locations that could need dumpster services in the future and the addition of these locations would fall under this contract, as well as changes in current dumpster needs. Vendor may also need to provide additional services related to debris removal in the event of a county wide disaster declaration.

Locations:

5 Mile Dam	4440 Old Stagecoach Road, San Marcos, TX
Government Center	712 S. Stagecoach Trail, San Marcos, TX
Jacobs Well Natural Area	1699 Mt. Sharp Road, Wimberley, TX
Jail	1307 Uhland Road, San Marcos, TX
Juvenile Detention Center	2250 Clovis Barker Lane, San Marcos, TX
Precinct 1 Road Department	1101 Civic Center Loop, San Marcos, TX
Precinct 2 Offices	5458 FM 2770, Kyle, TX
Precinct 3 Offices	200 Stillwater Circle, Wimberley, TX
Precinct 4 Road Department (Barn)	20290 FM 150 West, Driftwood, TX
Public Safety Building	801 S. Stagecoach Trail, San Marcos, TX
Road Department	2171 Yarrington Road, San Marcos, TX
San Marcos Health Department	401-A Broadway Street, San Marcos, TX
WIC Building	150 E. Lockhart Street, Kyle, TX

B. Scope of Work

Contractor shall furnish all labor, supplies and equipment for the complete and satisfactory dumpster services throughout the County. Contractor shall provide *all* services required in these specifications.

Damage:

Contractor shall be responsible for County property or privately-owned property damaged by their employees or equipment during performance of duties. Contractor shall notify the Contract Administrator immediately who will inspect and determine the degree of damage including the extent of the responsibility.

Contractor shall promptly report any unusual conditions to the Contract Administrator. This shall include, but not limited to damage to City, County, or State property, trees, shrubs, unauthorized occupancy, etc. resulting from vehicular damage, storm damage, or vandalism.

Management and Inspection:

All workmanship, equipment and materials shall be subject to inspection and examination by the Contract Administrator or his/her designee at any time during the performance of the work. The Contract Administrator will conduct routine checks on performance, completion of tasks and cleanliness. All containers, once emptied, shall be returned to the original position with the lids replaced and loading and side doors closed.

Contractor must close and secure all gates and enclosures prior to leaving the site.

Work Schedule & Missed Collections:
The attached schedule lists the location, size and pickup days. Pickups shall occur Monday through Saturday between 7 a.m. and 6 p.m. There shall be no pickups on Sundays. Seasonal dumpsters must be removed during the off-season and replaced before the season begins. Removal must occur within one week of the last pick-up.

Contractor shall establish and advise the Contract Administrator of internal control procedures to guarantee that each pickup shall be made as specified. Contractor shall notify the Contract Administrator whenever there is any schedule change or when a pickup will be missed. Notification must occur within a minimum of twenty-four hours prior to the scheduled pickup.

Contract holidays are as follows:

- New Year's Day
- Memorial Day
- Independence Day
- Labor Day
- Thanksgiving Day
- Christmas Day

No holiday or overtime work is authorized without prior approval of the Contract Administrator. Should inclement weather conditions or problems beyond the control of the Contractor interrupt or delay service, the Contractor shall: advise the Contract Administrator of the stoppage or delay and advise the Contract Administrator of the alternate pick-up day.

Container Specifications:
Contractor shall provide the specified number, type and size of refuse and recycling containers to the locations listed herein. The containers will range in size from 8 cubic yard dumpsters up to 40+ yard dumpsters. Dumpsters must fit into the existing dumpster enclosures or designated area located at each site. At any point if the County deems the container size and/or frequency of pickups does not satisfy the needs of the County then we can request a different size dumpster. All dumpster sizes and price per haul should be listed in Attachment A.

The containers provided by the Contractor shall meet all Federal, County and City health and safety regulations. The dumpster type containers shall be equipped with side and top doors to allow for either top or side loading and shall be designed to provide rodent-proof, animal proof, and wind-proof storage of refuse/recycle contents.

Contractor shall maintain all containers in a clean and sanitary condition and regularly rotate with clean containers, whenever necessary, to maintain optimum cleanliness, health and sanitary conditions including but not limited to the following:

a. Repair and repaint containers as necessary.
    i. Repairs to, or exchange of defective containers shall be made before the next scheduled pickup after notice is received from the Contract Administrator or designee
    ii. Minor repairs may be made on site when approved by the Contract Administrator
b. Provide substitute containers when maintenance or repair is being performed on containers normally provided.

c. Exchange containers at no additional charge if the County determines containers are unsightly, damaged or unusable.

Safety and Cleanliness:
Contractor shall provide for a neat, clean, and safe environment at all times during all work.

Contractor and his employees shall be of neat appearance and conduct themselves in a professional manner while working for Hays County.

Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions during all work.

Contractor shall take all reasonable protection to prevent damage, injury, or loss to:

- All employees on the job and any other persons who may be affected thereby.
- All work and all materials.
- Other property at the site or adjacent thereto.

Contractor shall give all notices and comply with all applicable laws, ordinance, rules, regulations, and orders of any public authority bearing on safety of persons and property and their protection from damage, injury, or loss. Contractor shall notify the Contract Administrator and promptly remedy all damage or loss to property caused in whole or in part by the Contractor.

Accident Prevention and Protection:
Precautions shall be exercised at all times for the protection of persons and property. Contractor performing services under this contract shall conform to all relevant OSHA, State, County, and City regulations during the course of such effort. Any fines levied by the above-mentioned authorities for failure to comply with these requirements shall be borne solely by the Contractor.

Barricades and/or signage shall be provided and posted by the Contractor when work is performed in areas traversed by persons, or when deemed necessary by the Contract Administrator. Contractor shall leave work site clean and free of any tools and other materials related to the work.

Contractor shall take all necessary precautions to protect existing County equipment, Contractor's equipment, County facilities, and occupants from damages or harm caused by any work.

Damage by the Contractor to any person or property, public or private, shall be repaired and/or compensated by the Contractor, at no cost to the County. Any damages or injuries shall be reported to the Contract Administrator, in writing, within 24 hours of occurrence.

Spillage:
Contractor shall not allow contents of the dumpsters or containers to spill during dumping operations. If spillage occurs, the Contractor shall be responsible for the immediately clean-up of the spillage.

All vehicles used in the performance of the Contractor's duties shall have a broom and pan for sweeping debris. All vehicles used in the performance of the Contractor's duties shall have spill response equipment for containment and clean up.

C. **Qualifications**

RESPONSIBILTY: A prospective bidder must affirmatively demonstrate bidder's responsibility. A prospective bidder must meet the following requirements:

- Must have five (5) years prior experience with the scope of work as detailed in the specification
- Have adequate financial resources, or the ability to obtain such resources as required
- Be able to comply with required or proposed delivery schedule
- Have a satisfactory record of performance
- Be otherwise qualified and eligible to receive an award
- Contractor shall be regularly engaged in the performance of the specified work and make available, for this purpose, a regular force of skilled workers and equipment.
- Contractors collection vehicles must be permitted in compliance with all Federal, State, County and City requirements.
- Contractor shall perform all specified work using skilled, and licensed technicians; supervised and directly employed by the Contractor. Materials and equipment furnished by the Contractor shall conform in strength, quality of material, appearance, and workmanship to that which is usually provided by contractors in this trade.
- Contractor shall be required to maintain an office staffed by company representatives during normal business hours, Monday through Friday 7:00 a.m. to 5:00 p.m. Contractor shall always have available a dedicated line for facsimile machine, an email address and telephone number for communication between the Contractor and the Contract Administrator.
- Contractor shall have the ability to provide a back-up refuse/recycling and/or disposal facility operating in accordance with all applicable Federal, State and local laws and regulations, latest edition.
- The County shall have the right to take such steps as it deems necessary to determine the ability of the Bidder to perform the work and reserves the right to request additional information. The right is reserved to reject any bid where an investigation of the evidence or information submitted by such Bidder does not satisfy the City that the Bidder is qualified to properly carry out the terms of the Bid Document

COMPLIANCE WITH LAWS: The successful bidder shall comply with all applicable federal, state and local laws and regulations pertaining to the practice of the profession and the execution of the duties under the bid.

INSURANCE: The successful bidder will be required to furnish proof of insurance for Workers' Compensation, Auto Liability and General Liability before any work may begin.

It is the practice of Hays County to encourage local participation and to promote and encourage contracting and subcontracting opportunities for locally owned businesses and labor in all contracts.

The County of Hays does not discriminate on the basis of race, color, national origin, sex, religion, age and disability in employment or the provision of services.

TIME OF PERFORMANCE: It is imperative that the prospective respondent respond to County requests in a timely manner and comply with required or proposed delivery schedules. Please describe how you intend to respond to and track County requests.

SYSTEM FOR AWARD MANAGEMENT: Respondent and its Principals may not be debarred or suspended nor otherwise on the Excluded Parties List System (EPLS) in the System for Award Management (SAM). Include verification that the company as well as the company's principals are not listed (are not

debarred) through the System for Award Management (www.SAM.gov). Enclose a printout of the Entity Registration page that shows your firm is in active status and is not expired.

D. Mandatory Bid Form

Respondent must provide its total bid amount by completing the mandatory bid form included as Attachment A: IFB 2021-B12 Bid Form. **Pricing should be based on per haul.**

All pricing and fees shall include installation and removal of the container. Equipment required, fuel, labor, tipping fees, clean-up costs and all associated costs to perform this service efficiently and effectively.

Hays County is exempt from federal excise and state sales tax; therefore, tax must not be included in this bid.

ESTIMATED QUANTITIES: No warranty is given or implied by the County as to any components listed in this Bid and are considered to be estimates for the purpose of information only. The County reserves the right to accept all or any part of the bid and to increase or decrease quantities of Bidder's bid to meet additional or reduced requirements of the County.

ADDITIONAL ITEMS/DUTIES: The County may require additional items/duties of a similar nature, but not specifically listed in the contract. The Contractor agrees to provide such items/duties, and shall provide the County prices on such additional items or duties based upon a formula or method which is the same or similar to that used in establishing the prices in the bid. If the price(s) offered are not acceptable to the County, and the situation cannot be resolved to the satisfaction of the County, the County reserves the right to purchase those items from other vendors, or to cancel the contract upon giving the Contractor thirty (30) days written notice.

E. Transition Plan

Proposer shall describe its proposed strategies to ensure a smooth transition from the current provider to the successful Proposer. The proposed transition plan is of critical importance to the County.
In the transition plan, Proposer must describe the following:

- Individual or group of individuals that will oversee the execution of the transition plan.
- Proposed approach, including equipment, personnel, and schedule, for delivering equipment (carts, dumpsters, compactors, etc.) to customers. Proposers shall also describe how the delivery of equipment will be conducted in coordination with the removal of the existing equipment used by the customers.
- Detailed schedule for the transition.
- Proposed strategies for customer communication regarding the transition of service providers.

F. Performance Bond

A performance bond in the amount of 100% of the annual value of the Contract which will be determined upon bid award and re-evaluated annually. This will be maintained and renewed each year during the term of the contract. Proof of renewal of the bond must be submitted to the County prior to renewal of the contract each year.

G. Submittal Requirements

Vendor must deliver their bids to the Hays County Purchasing Department by one of the following methods by the specified deadline:

Mailed or Dropped off Bids:

- One (1) original bid with required forms manually signed by Vendor with original signatures
- One (1) digital copy of the full bid with all required forms on a thumb

drive

- All items must be in a sealed envelope marked with the Solicitation Number and Vendor Name on the outermost envelope

Electronic Bids:

- Upload bids with required forms manually signed by Vendor
- No thumb drive required with electronic submissions
- www.bidnetdirect.com/hayscounty

LATE SUBMITTALS WILL NOT BE ACCEPTED.

Submittals will be publicly opened at the Office of the Hays County Auditor upon the deadline for submittal. Respondents, their representatives and interested persons may be present. All unofficial bid results will be posted on the following two sites, until an award has been made in Commissioners Court:

Hays County: https://hayscountytx.com/departments/auditor/purchasing/bidding-opportunities/

BidNet Direct: https://www.bidnetdirect.com/texas/hayscounty

It is understood that Hays County reserves the right to accept or reject any and all submittals as it shall deem to be in the best interest of Hays County.

ALTERING PROPOSALS: Any interlineations, alteration, or erasure made before receiving time must be initialed by the signer of the proposal, guaranteeing authenticity.

WITHDRAWING OF PROPOSAL: A proposal may be withdrawn at any time prior to the official opening. After the official opening, proposals may not be amended, altered or withdrawn without the recommendation of the County Purchasing Manager and the approval of Commissioners Court.

FORMS: All proposals must be submitted on the forms provided in this solicitation document. Changes to solicitation forms made by bidders shall disqualify the proposal.

REFERENCES: Hays County requires respondent to supply a list of at least three (3) references (See Section IV for Vendor Reference Form) where like services have been supplied by their company. Include name of company, address, telephone number and name of representative.

H. Award of Contract

BASIS OF AWARD: The County reserves the right to award a contract to a bidder on the basis of unit price low bid and/or the best value for the County. The County reserves the right to accept in part or in whole any bids submitted and waive any technicalities for the best interest of the County.

The bid award shall be based on but not necessarily limited to, the following factors:

- Total price
- Special needs and requirements of Hays County
- Vendors past performance record with Hays County
- Hays County's evaluation of vendor's ability to perform
- Vendor's references

RESPONSIBILTY: A prospective respondent must affirmatively demonstrate respondent's responsibility. A prospective respondent must meet the following requirements:

- Have adequate financial resources, or the above ability to obtain such resources as required
- Be able to comply with required or proposed delivery schedule

- Have a satisfactory record of performance
- Be otherwise qualified and eligible to receive an award

CONTRACT: This bid, when properly accepted by Hays County shall constitute a contract equally binding between the successful bidder and Hays County. No negotiations, decisions, or actions shall be initiated or executed by any vendor as a result of any discussions with any County employee. Only those communications that are in writing from the Purchasing Manager shall be considered as a duly authorized expression on behalf of the County. No oral agreements either expressed or implied will be considered in fulfilling this contract. No additional terms will become part of this contract with the exception of Commissioners Court approved change orders.

BIDDER AGREES, if this bid is accepted, to furnish any and all services upon which prices are offered, at the price(s) and upon the terms and conditions contained in the specifications. The period for acceptance of the bid will be ninety (90) calendar days.

The successful bidder expressly warrants that all services specified in the IFB will be performed with care and diligence and in accordance with all specifications of the IFB. The successful bidder agrees to correct any deficiencies in its performance of services upon notification by the County and without additional expense to the County.

The County reserves the right to accept in part or in whole any bids submitted and waive any technicalities for the best interest of the County.

If the bid is accepted and approved by Commissioners Court, this document shall be made part of the contract. No negotiations, decisions, or actions shall be initiated or executed by any vendor as a result of any discussions with any County employee. No oral agreements either expressed or implied will be considered in fulfilling this contract.

I. Warranty of Performance

The successful respondent expressly warrants that all services specified in the IFB will be performed with care and diligence and in accordance with all specifications of the IFB. The successful bidder agrees to correct any deficiencies in performance of services upon notification by the County and without additional expense to the County.

CONTINUING NON-PERFORMANCE of the bidder, in terms of specifications, shall be basis for the termination of the contract by the County. The County shall not pay for merchandise/services that are unsatisfactory. Failure to perform any provision will constitute a default of contract, in which case, corrective action shall take place within ten (10) days from the date of written notice citing the nature of breach. Failure to take corrective action or to provide a satisfactory written reply excusing such failure within the prescribed ten (10) days will authorize the County to terminate this agreement by written notice.

COMPLIANCE WITH LAWS: The successful Respondents shall comply with all applicable federal, state and local laws and regulations pertaining to the practice of the profession and the execution of the duties under the solicitation. Any contract executed as a result of this IFB shall be governed by the laws of the State of Texas.

IV. General Terms and Conditions for Solicitations Applicable To: Invitations for Bid (IFB)

1. GENERAL DEFINITIONS:
    a. "Auditor" means the Hays County Auditor or his/her designee.
    b. "Commissioners Court" means Hays County Commissioners Court.
    c. "Contract" means the contract awarded pursuant to the IFB.
    d. "Contractor" means a person or firm receiving an award of contract from Commissioners Court.
    e. "County" means Hays County, Texas, a political subdivision of the State of Texas.
    f. "County Building" means any County owned buildings and does not include buildings leased by County.
    g. "Is doing business" and "has done business" mean:
        i. Paying or receiving in any calendar year any money or other valuable thing which is worth more than $250 in the aggregate in exchange for personal services or for purchase of any property or property interest, either real or personal, either legal or equitable; or
        ii. Loaning or receiving a loan of money; or goods or otherwise creating or having in existence any legal obligation or debt with a value of more than $250 in the aggregate in a calendar year;
        iii. But does not include any retail transaction for goods or services sold to a Key Contracting Person at a posted, published, or marked price available to the general public.
    h. "Purchasing Manager" means the Hays County Purchasing Manager.
    i. "Sub-contractor" means a person or firm doing business with a Contractor.

2. FUNDING: Funds for payment on this Contract have been provided through the County budget approved by Commissioners Court for this fiscal year only. State of Texas statutes prohibit the obligations and expenditure of public funds beyond the fiscal year for which a budget has been approved. However, the cost of items or services covered by this Contract is considered a recurring requirement and is included as a standard and routine expense of Hays County to be included in each proposed budget within the foreseeable future. County Commissioners expect this to be an integral part of future budgets to be approved during the period of this Contract except for unanticipated needs or events which may prevent such payments against this Contract. However, County cannot guarantee the availability of funds, and enters into this Contract only to the extent such funds are made available. The Fiscal Year for County extends from October 1st of each calendar year to September 30th of the next calendar year.

3. FUNDING OUT: Despite anything to the contrary in this Contract, if, during budget planning and adoption, Commissioners Court fails to provide funding for this Contract for the following fiscal year of County, County may terminate this Contract after giving Contractor thirty (30) calendar days written notice that this Contract is terminated due to the failure to fund it.

4. INVOICING/PAYMENTS:
    a. Contractor shall provide County with an Internal Revenue Form W-9, Request for Taxpayer Identification Number and Certification, that is completed in compliance with the Internal Revenue Code and its rules and regulations before any Contract funds are payable.
    b. As a minimum, invoices shall include: (i) name, address, and telephone number of Contractor and similar information in the event payment is to be made to a different address; (ii) County Contract or Purchase Order number; (iii) identification of products or services as outlined in this Contract; (iv) quantity or quantities, applicable unit prices, total prices, and total amount; and (v) any additional payment information called for by this Contract. County will not pay invoices that are in excess of the amount authorized by the purchase order.
    c. Payment shall be made by check or warrant by County upon satisfactory delivery and acceptance of products and services and submission of an invoice to the address below:
    County Auditor
    712 S Stagecoach Trail, Suite 1071
    San Marcos, Texas 78666

d. Payment shall be deemed to have been made on the date of mailing of the check or warrant. For purposes of payment discounts, time will begin upon satisfactory delivery of products and services and/or submission of acceptable invoice, whichever is last. Partial payments will not be made unless specifically requested and approved by County prior to Contract award.
e. Accrual and payment of interest on overdue payments shall be governed by Tex. Gov't Code Ann., ch. 2251.

5. COUNTY TAXES: If the Contractor subsequently becomes delinquent in the payment of County taxes, it will be grounds for cancellation of the contract. Despite anything to the contrary, if the contractor is delinquent in payment of County property taxes at the time of invoicing, Contractor assigns any payments to be made for performance under this contract to the County Tax Assessor-Collector for the payment of delinquent taxes.

6. PROMPT PAYMENT ACT: TEX. GOV'T CODE ANN., ch 2251 (Vernon Supp. 1995) requires that payments be made within 30 calendar days. If County fails to pay within 30 days, interest on overdue amounts is subject to Chapter 2251, Texas Government Code. The law does not apply if the terms of a federal grant, contract, regulation, or statute prevent local governments from making timely payments with federal funds. Contractors and subcontractors must pay their suppliers interest if the supplier is not paid within 10 calendar days after the contractor or subcontractor receives payment. Contractors must apply for interest payments within 6 months of submitting a proper invoice if they believe such interest was due but not paid. Interest begins accruing 30 days after either of the following, whichever is later; (i) satisfactory delivery or performance has been completed, or, (ii) a correct invoice is received at the designated place.

7. FOB POINT: Delivery of all products under this contract, if any, shall be made Free on Board to final destination, at the address shown in this contract or as indicated on each Purchase Order placed against this contract. The title and risk of loss of the goods shall not pass to County until acceptance takes place at the F.O.B. point.

8. INSPECTION AND ACCEPTANCE: The County office or department receiving items pursuant to this contract shall inspect and accept only those items that are satisfactory to them, and reject those items which are damaged or which do not conform to specifications. Contractor shall be responsible for the proper labeling, packing, and delivery to final destination, including replacement of rejected deliveries.

9. VARIATION IN QUANTITY: No variation in the quantity of any item called for by this contract will be accepted unless such variation has been caused by conditions of loading, shipping, or packing, or allowances in manufacturing processes, and then only to the extent, if any, specified elsewhere in this contract.

10. OFFICIALS NOT TO BENEFIT: If a member of Commissioners Court belongs to a cooperative association, the County may purchase equipment or supplies from the association only if no member of the Commissioners Court will receive a pecuniary benefit from the purchase, other than as reflected in an increase in dividends distributed generally to members of the association.

11. NONDISCRIMINATION; CIVIL RIGHTS/ADA COMPLIANCE:
    a. Contractor shall not engage in employment practices that have the effect of discriminating against employees or prospective employees because of age, race, color, sex, creed, national origin or handicapped condition.
    b. Contractor shall provide all services and activities required in a manner that would comply with the Civil Rights Act of 1964, as amended, the Rehabilitation Act of 1973, Public Law 93-1122, Section 504, and with the provisions of the Americans with Disabilities Act of 1990, Public Law 101-336 [S.933] if Contractor were an entity bound to comply with these laws.

12. CHANGES:

a. This Contract may be amended only by written instrument signed by both County and Contractor. It is acknowledged by Contractor that NO OFFICIAL, EMPLOYEE, AGENT OR REPRESENTATIVE OF COUNTY HAS ANY AUTHORITY, EITHER EXPRESS OR IMPLIED, TO CHANGE THE SCOPE OF THIS CONTRACT OR OTHERWISE AMEND THIS CONTRACT, OR ANY ATTACHMENTS HERETO, UNLESS EXPRESSLY GRANTED THAT AUTHORITY BY THE COMMISSIONERS COURT.
b. Contractor shall submit all requests for changes to this Contract or any attachment(s) to it to the Purchasing Manager. The Purchasing Manager shall present Contractor's requests to Commissioners Court for consideration.

13. REPRESENTATIONS:
a. Contractor represents that he has thoroughly examined the drawings, specifications, schedule, instructions and all other contract documents. Contractor has made all investigations necessary to be thoroughly informed regarding plant and facilities for delivery of material, equipment and/or services as required by the proposal conditions.
b. The Contractor's delivery time includes weekends and holidays.
c. Contractor certifies that he is a qualified, bondable business entity that he is not in receivership or contemplates it, and has not filed for bankruptcy. He further certifies that the Company, Corporation, Partnership, or Sole Proprietorship is not delinquent with respect to payment of County property taxes.
d. Contractor warrants that all applicable patents and copyrights which may exist on items that will be supplied under the contract have been adhered to and further warrants that County shall not be liable for any infringement of those rights. Warranties granted County shall apply for the duration of this contract or for the life of equipment or supplies purchased, whichever is longer. County must not extend use of the granted exclusive rights to any other than County employees or those with whom County has established a relationship aimed at furthering the public interest, and then only for official public uses. County will not knowingly or intentionally violate any applicable patent, license, or copyright. Contractor must indemnify County, its officers, agents, and employees against all claims, suits, and liability of every kind, including all expenses of litigation, court costs, and attorney's fees arising in connection with any alleged or actual infringement of existing patents, licenses or copyrights applicable to items sold.
e. The Contractor warrants that upon execution of a contract with the County, he will not engage in employment practices which have the effect of discriminating against employees or prospective employees because of age, religion, race, color, sex, creed, handicap, or national origin and will submit reports as the County may require to assure compliance.
f. Contractor warrants to County that all items delivered and all services rendered will conform to the specifications, drawings, or other descriptions furnished or incorporated by reference, and will be of merchantable quality, good workmanship, and free from defects. Contractor further agrees to provide copies of applicable warranties or guarantees to the Purchasing Manager. Copies will be provided within 10 days after the Notice of Award is issued. Return of merchandise under warranty shall be at Contractor's expense.

14. SUBCONTRACTS:
a. Contractor shall not enter into any subcontracts for any service or activity relating to the performance of this Contract without the prior written approval or the prior written waiver of this right of approval from County. IT IS ACKNOWLEDGED BY CONTRACTOR THAT NO OFFICER, AGENT, EMPLOYEE OR REPRESENTATIVE OF COUNTY HAS THE AUTHORITY TO GRANT SUCH APPROVAL OR WAIVER UNLESS EXPRESSLY GRANTED THAT SPECIFIC AUTHORITY BY THE COMMISSIONERS COURT.
b. If a subcontract is approved, Contractor must make a "good faith" effort to take all necessary and reasonable steps to insure HUBs maximum opportunity to be subcontractors under this Contract. Contractor must obtain County approval of all proposed HUB subcontractors through the Purchasing Manager. Failure by Contractor to make a good faith effort to employ HUBs as subcontractors constitutes a breach of this Contract and may result in termination of this Contract.

15. ASSIGNMENT:

a. The parties to this Contract shall not assign any of the rights or obligation hereunder without the prior written consent of the other party. No official, employee, representative or agent of County has the authority to approve any assignment under this Contract unless that specific authority is expressly granted by Commissioners Court.
b. The terms, provisions, covenants, obligations and conditions of this Contract are binding upon and inure to the benefit of the successors in interest and the assigns of the parties to this Contract if the assignment or transfer is made in compliance with the provisions of this Contract.
c. Contractor remains responsible for the performance of this Contract when there is a change of name or change of ownership. If a change of name is required, the Purchasing Manager shall be notified immediately. No change in the obligation of or to Contractor will be recognized until it is approved by Commissioners Court.

16. DISPUTES AND APPEALS: The Purchasing Manager acts as the County representative in the issuance and administration of this contract in relation to disputes. Any document, notice, or correspondence not issued by or to the Purchasing Manager or other authorized County person, in relation to disputes is void unless otherwise stated in this contract. If the Contractor does not agree with any document, notice, or correspondence issued by the Purchasing Manager, or other authorized County person, the Contractor must submit a written notice to the Purchasing Manager within ten (10) calendar days after receipt of the document, notice, or correspondence, outlining the exact point of disagreement in detail. If the matter is not resolved to the Contractor's satisfaction, Contractor may submit a written Notice of Appeal to the Commissioners Court, through the Purchasing Manager, if the Notice is submitted within ten (10) calendar days after receipt of the unsatisfactory reply. Contractor then has the right to be heard by Commissioners Court.

17. MEDIATION: When mediation is acceptable to both parties in resolving a dispute arising under this Agreement, the parties agree to use a mutually agreed upon mediator, or a person appointed by a court of competent jurisdiction, for mediation as described in Section 154.023 of the Texas Civil Practice and Remedies Code. Unless both parties are satisfied with the result of the mediation, the mediation will not constitute a final and binding resolution of the dispute. All communications within the scope of the mediation shall remain confidential as described in §154.073 of the Texas Civil Practice and Remedies Code, unless both parties agree, in writing, to waive the confidentiality.

18. FORCE MAJEURE: If the performance by either party of any of its obligations under this Contract is interrupted or delayed due to an act of God or the common enemy or as the result of war, riot, civil commotion, sovereign conduct, or the act or conduct of any person or persons not a party to this Contract, then it shall be excused from performance for such period of time as is reasonably necessary to remedy the effects thereof.

19. NON-WAIVER OF DEFAULT:
    a. No payment, act or omission by County may constitute or be construed as a waiver of any breach or default of Contractor which then exists or may subsequently exist. No official, agent, employee or representative of County may waive any breach of any term or condition of this Contract unless expressly granted that specific authority by the Commissioners Court.
    b. All rights of County under this Contract are specifically reserved and any payment, act or omission shall not impair or prejudice any remedy or fight to County under it. Any right or remedy in this Contract shall not preclude the exercise of any other right or remedy under this Contract or under any law, nor shall any action taken in the exercise of any right or remedy be deemed a waiver of any other rights or remedies.

20. TERMINATION FOR DEFAULT: Failure by either County or Contractor to perform any provisions of this Contract shall constitute a breach of contract. Either party may require corrective action within ten (10) calendar days after date of receipt of written notice citing the exact nature of the other's breach. Failure to take corrective action or failure to provide a satisfactory written reply excusing such failure within the ten (10) calendar days shall constitute a default. The defaulting party shall be given a twenty (20) calendar day period within which to

show cause why this Contract shall not be terminated for default. All notices for corrective action, breach, default or show cause on behalf of County shall be issued by the Purchasing Manager or County legal representative only, and all replies to the same shall be made in writing to the County Purchasing Manager or County legal representative at the address provided herein. Notices issued by or to anyone other than the Purchasing Manager or County legal representative shall be null and void, and shall be considered as not having been issued or received. County reserves the right to enforce the performance of this Contract in any manner prescribed by law in case of default and may contract with another party with or without competition or further notification to the contractor. At a minimum, Contractor shall be required to pay any difference in the cost of securing the services covered by this Contract, or compensate for any loss or damage to the County derived hereunder if it becomes necessary to contract with another source because of a default, plus reasonable administrative costs and attorney's fees. In the event of termination for default, County, its agents or representatives, shall not be liable for loss of any profits anticipated under this Contract.

21. TERMINATION FOR CONVENIENCE: County reserves the right to terminate this Contract upon thirty (30) days written notice for any reason deemed by the Commissioners Court to serve the public interest, or resulting from any governmental law, ordinance, regulation, or court order. Termination for convenience shall not be exercised with the sole intention of awarding the same or similar contract requirements to another source. In the event of such termination, County shall pay Contractor those costs directly attributable to work done in preparation for compliance with this Contract prior to termination; provided, however, that no costs shall be paid which are recoverable in the normal course of the business in which Contractor is engaged, nor shall County pay any costs which can be mitigated through the sale of supplies or inventories. If County pays for the cost of supplies or materials obtained for use under this Contract those supplies or materials shall become the property of County and shall be delivered to the FOB point shown in this Contract, or as designated by the Purchasing Manager. County shall not be liable for loss of any profits anticipated under this Contract.

22. GRATUITIES: Contractor shall not provide any gratuity in any form, including entertainment, gifts, or otherwise, to any employee, buyer, agent, or representative of County with a view to securing a contract, or securing favorable treatment with respect to the award or amendment, or the making of any determination with respect to the performance of this Contract. County may terminate this Contract if it is found that gratuities of any kind including entertainment, or gifts were offered or given by the Contractor or any agent or representative of the Contractor, to any County Official or employee with a view toward securing favorable treatment with respect of this contract. If this Contract is terminated by the County pursuant to this provision, County shall be entitled, in addition to any other rights and remedies, to recover from the Contractor at least three times the cost incurred by Contractor in providing the gratuities.

23. COVENANT AGAINST CONTINGENT FEES: Contractor represents and warrants that no persons or selling agency has been retained to solicit this Contract upon an understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial selling agencies maintained by the Contractor to secure business. For breach or violation of this warranty, County shall have the right to terminate this Contract without liability, or in its discretion to, as applicable, add to or deduct from the Contract price for consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

24. COUNTY ACCESS: Contractor shall maintain and make available for inspection, audit or reproduction by any authorized representative of County all books, documents, and other evidence pertinent to the costs and expenses of this Contract, including but not limited to both direct and indirect costs, cost of labor, material, equipment, supplies, and services, and all other costs and expenses of whatever nature for which reimbursement is claimed under this Contract. All required records shall be maintained until an audit is completed and all required questions arising therefrom are resolved, or three (3) years after completion of the contract term, whichever occurs first; provided, however, the records will be retained beyond the third year if an audit is in progress or the finding of a completed audit have not been resolved satisfactorily.

25. FORFEITURE OF CONTRACT:
    a. The selected Offeror must forfeit all benefits of the contract and County must retain all performance by the selected Offeror Contractor and recover all consideration or the value of all consideration paid to the selected Offeror pursuant to the contract if:
    b. The selected Offeror was doing business at the time of submitting its proposal offer or had done business during the 365- day period immediately prior to the date on which its proposal offer was due with one or more Key Contracting Persons if the selected Offeror failed to disclose the name of any such Key Contracting Person in its offer; or
    c. The selected Offeror does business with a Key Contracting Person after the date on which the offer that resulted in the contract is submitted and prior to full performance of the contract.

26. CONTRACTOR CLAIMS NOTIFICATION:
    a. If any claim, or other action, that relates to Contractor's performance under this Contract, including proceedings before an administrative agency, is made or brought by any person, firm, corporation, or other entity against Contractor, Contractor shall give written notice to County of the following information within ten (10) working days after being notified of it:
        i. The existence of the claim, or other action;
        ii. The name and address of the person, firm, corporation or their entity that made a claim or that instituted any type of action or proceeding;
        iii. The alleged basis of the claim, action or proceeding;
        iv. The court or administrative tribunal, if any, where the claim, action or proceeding was instituted; and
        v. The name or names of any person against whom this claim is being made.
    b. Except as otherwise directed, Contractor shall furnish to County copies of all pertinent papers received by Contractor with respect to making these claims or actions and all court pleadings related to the defense of these claims or actions.

27. CERTIFICATION OF ELIGIBILITY: This provision applies if the anticipated Contract exceeds $100,000. By submitting a bid or proposal in response to this solicitation, the bidder/respondent certifies that at the time of submission, he/she is not on the Federal Government's Excluded Parties List System (www.epls.gov), which details a listing of suspended, ineligible, or debarred contractors. In the event of placement on the list between the time of bid/proposal submission and time of award, the bidder/respondent will notify the Hays County Purchasing Manager. Failure to do so may result in terminating this Contract for default.

28. CONTRACTOR LIABILITY, INDEMNIFICATION AND CLAIMS NOTIFICATION: Contractor shall indemnify County, its officers, agents, and employees, from and against any and all third party claims, losses, damages, causes of action, suits, and liability of every kind whether meritorious or not and, including all expenses of litigation, court costs, and reasonable attorney's fees, arising in connection with the services provided by Contractor under this Contract. It is the expressed intention of the Parties to this Contract, both Contractor and County, that the indemnity provided for in this paragraph is indemnity by Contractor to indemnify and protect County from the consequences of Contractor's actions.

29. CONSTRUCTION OF CONTRACT:
    a. This Contract is governed by the laws of the United States of America and the State of Texas and all obligations under this Contract are performable in Hays County, Texas. Venue for any dispute arising out of this Contract will lie in the appropriate court of Hays County, Texas.
    b. If any portion of this Contract is ruled invalid, illegal, or unenforceable in any respect by a court of competent jurisdiction, the remainder of it shall remain valid and binding.
    c. Headings and titles at the beginning of the various provisions of this Contract have been included only to make it easier to locate the subject matter covered by that part, section or subsection and are not to be used in construing this Contract.

d. When any period of time is stated in this Contract, the time shall be computed to exclude the first day and include the last day of period. If the last day of any period falls on a Saturday, Sunday, or a day that Hays County has declared a holiday for its employees, these days shall be omitted from the computation. All hours in this Contract are stated in Central Standard Time from 2:00 o'clock a.m. on the first Sunday of November until 2:00 o'clock a.m. on the second Sunday of March and in Central Daylight Saving Time from 2:00 o' clock a.m. on the second Sunday of March until 2:00 o'clock a.m. on the first Sunday of November or such other dates as may be adopted for the activation of Daylight Savings Time in the United States in future years.
e. Words of any gender in this Contract shall be construed to include any other gender and words in either number shall be construed to include the other unless the context clearly requires otherwise.
f. Provisions, Words, Phrases, and Statutes, whether incorporated by actual use or by reference, shall be applied to this Contract in accordance with Texas Government Code, §§ 312.002 and 312.003.

30. ADDITIONAL GENERAL PROVISIONS:
a. Contractor must comply with all Federal and State laws and regulations, City and County ordinances, orders, and regulations, relating in any way to this Contract.
b. Contractor must secure all permits and licenses, pay all charges and fees, and give all notices necessary for lawful operations.
c. Contractor must pay all taxes and license fees imposed by the Federal and the State Governments and their agencies and political subdivisions upon the property and business of Contractor.
d. Despite anything to the contrary in this Contract, if the Contractor is delinquent in payment of property taxes at the time of providing services, Contractor assigns the amount of any payment to be made for services provided under this Contract equal to the amount Contractor is delinquent in property tax payments to the Hays County Tax Assessor-Collector for the payment of the delinquent taxes.
e. In this subsection, "County Building" means any County-owned buildings and does not include buildings leased by County. Contractor must not execute any mortgage, or issue any bonds, shares of stock, or other evidence of interest in County Buildings.

31. INTERPRETATION OF CONTRACT:
a. This document contains the entire agreement between the parties relating to the rights granted and the obligations assumed. Any prior agreements or representations not expressly set forth in this agreement are of no force. Any oral representations or modifications concerning this agreement shall be of no force except a subsequent modification in writing signed by the Purchasing Manager. No official, representative, employee, or agent of the County has any authority to modify or amend this contract except pursuant to specific authority to do so granted by the Commissioners Court.
b. If inconsistency exists between provisions of this solicitation, the inconsistency shall be resolved by giving precedence in the following ascending order of precedence:
    i. The Schedule of Items/Services
    ii. Terms and Conditions of Request for Proposals;
    iii. General Provisions;
    iv. Other provisions, whether incorporated by reference or otherwise; and
    v. The specifications.
c. If any contract provision shall for any reason be held invalid, illegal, or unenforceable in any respect, invalidity, illegality, or unenforceability shall not affect any other provision, and this contract shall be construed as if invalid, illegal or unenforceable provision had never been contained.
d. This contract shall be governed by the laws of Texas and all obligations are performable in Hays County, Texas.
e. If a word is used with reference to a particular trade or subject matter or is used as a word of art, the word shall have the meaning given by experts in that particular field.
f. Words in the present or past tense include the future tense. The singular includes the plural and the plural includes the singular. The masculine gender includes the feminine and neuter genders.

g. The headings in this contract have been included only to make it easier to locate the subject covered by each provision and are not to be used in construing this contract.
h. Provisions, words, phrases, and statutes, whether incorporated by actual use or by reference, shall be applied to this contract in accordance with TEX. GOV'T CODE ANN., SEC 312.002, 312.003 (Vernon 1991).

32. MODIFICATIONS:
    a. The County Purchasing Manager may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this contract in any one of the following:
        i. Drawings, designs or specifications when the supplies to be furnished are to be specifically manufactured for the County in accordance with the drawings, designs, or specifications.
        ii. Method of shipment or packing.
        iii. Place of deliveries.
        iv. Correction of errors of a general administrative nature or other mistakes, the correction of which does not affect the scope of the contract, or does not result in expense to the Contractor.
        v. Description of items to be provided.
        vi. Time of performance (i.e. hours of day, days of week, etc)
    b. If any such change causes an increase or decrease in the cost of, or time required for, performance of any part of the work under this contract whether, or not changed by the order, the Commissioners Court shall make an equitable adjustment in the contract price, the delivery schedule, or both, and shall modify the contract. The Contractor must submit any "proposal for adjustment" under this clause within thirty (30) calendar days from the date of receipt of the written order. However, if the County Purchasing Manager decides that the facts justify it, the County Purchasing Manager may receive and act upon a proposal submitted before final payment of the contract. If the Contractor's proposal includes the cost of property made obsolete or excess by the change, the County shall have the right to prescribe the manner of disposition of the property. Failure to agree to any adjustment shall be a dispute under the Disputes and Appeals clause. However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

33. PRICE CHANGES: The prices offered shall remain firm for the period of the contract. The prices offered shall also remain firm for the option years should the County choose to exercise the option to renew, except for changes that are industry wide and beyond the control of the contractor. If such changes do occur, it will be the responsibility of the contractor to provide documentation to Hays County substantiating the changes to the bid prices. Any price changes must be approved by Hays County.

34. INSURANCE AND LIABILITY: During the period of this contract, contractor shall maintain at his expense, insurance with limits not less than those prescribed below. With respect to required insurance, Contractor shall;
    a. Name County as additional insured as its interests may appear.
    b. Provide County a waiver of subrogation.
    c. Provide County with a thirty (30) calendar day advance written notice of cancellation or material change to said insurance.
    d. Provide the County Purchasing Manager at the address shown on Page 1 of this contract, a Certificate of Insurance evidencing required coverage within ten (10) calendar days after receipt of Notice of Award. Also, please assure your certificate contains the contract number as indicated on the Contract Award form when issued by Hays County.
    e. Submit an original certificate of insurance reflecting coverage as follows:

Automobile Liability:	
Bodily Injury (Each person)	$1,000,000.00
Bodily Injury (Each accident)	$1,000,000.00
Property Damage	$1,000,000.00

Commercial General Liability (Including Contractual Liability):

General Aggregate	$2,000,000.00
Product completed operations aggregate	$2,000,000.00
Bodily Injury (Each accident)	$2,000,000.00
Property Damage	$2,000,000.00
Employers Liability:	
Each accident	$1,000,000.00
Each employee for disease	$1,000,000.00
Policy limit for disease	$1,000,000.00
Excess Liability:	
Umbrella Form	Not Required
Labor Liability:	
Worker's Compensation	Meeting Statutory Requirements

V. Vendor Reference Form

Please list three (3) references of current customers who can verify the quality of service your company provides. The County prefers customers of similar size and scope of work to this proposal/bid. **This form must be returned with your bid/proposal.**

REFERENCE ONE

Company Name: City of Pflugerville

Address: 100 E. Main St. Pflugerville, TX 78660

Contact Person and Title: Tracey Hibbs - Utility Operations Business Manager

Phone Number: 512-990-6100

Scope & Duration of Contract: Residential Solid Waste Service & Disposal 2006 - current

REFERENCE TWO

Company Name: City of Bastrop

Address: 1311 Chestnut St. Bastrop, TX 78602

Contact Person and Title: Tracey Moffett - Utility Customer Service Provider

Phone Number: 512-332-8831

Scope & Duration of Contract: Residential, Commercial, & Industrial Waste Service & Disposal. 2015 - Present

REFERENCE THREE

Company Name: City of Woodcreek

Address: 41 Champions Cir Wimberly, TX 78676

Contact Person and Title: Brenton Lewis - City Manager

Phone Number: 512-847-9390

Scope & Duration of Contract: Residential & Commercial Waste Service & Disposal. 2000 - Current

VI. Certificate of Interested Parties

In 2015, the Texas Legislature adopted House Bill 1295, which added 2252.908 to the Texas Government Code and applies to all contracts entered into on or after January 1, 2016. Section 2252.908 (b)(1)(2) applies only to a contract of a governmental entity or state agency that requires an action or vote by the governing body of the entity or agency before the contract may be signed or that has a value of at least $1 million. In addition, pursuant to Section 2252.908 (d), a governmental entity or state agency may not enter into a contract described by Subsection (b) with a business entity unless the business entity, in accordance with this section and rules adopted under this section, submits a disclosure of interested parties to the governmental entity or state agency at the time the business entity submits the signed contract to the governmental entity or state agency.

With regard to Hays County purchases, a vendor or other person who is awarded a contract or purchase approved by Hays County Commissioners Court is required to electronically complete a Form 1295 through the Texas Ethics Commission website at https://ethics.state.tx.us/whatsnew/elf_info_form1295.htm and submit a signed copy of the form to the Hays County Purchasing office. A contract, including County issued purchase order (if applicable), will not be enforceable or legally binding until the County received and acknowledges receipt of the properly completed Form 1295 from the awarded vendor.

If you do not have access to the link provided above please or have any questions please contact Purchasing at 512-393-5532.

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY
CERTIFICATION OF FILING

Certificate Number:
2021-791166

Date Filed:
08/16/2021

Date Acknowledged:

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.
Waste Connections Lone Star, Inc.
Seguin, TX United States

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.
Hays County

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.
IFB 2021-B12
Municipal Solid Waste Collection and Disposal

4 Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
		Controlling	Intermediary

5 Check only if there is NO Interested Party. [X]

6 UNSWORN DECLARATION

My name is Alex Cantu, and my date of birth is 02/08/90.

My address is 2010 IH-10 W (street), Seguin (city), TX (state), 78155 (zip code), U.S.A. (country).

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Guadalupe County, State of Texas, on the 16 day of August (month), 2021 (year).

Signature of authorized agent of contracting business entity
(Declarant)

VII. Conflict of Interest Questionnaire

CONFLICT OF INTEREST QUESTIONNAIRE — FORM CIQ

For vendor doing business with local governmental entity

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

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

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

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

OFFICE USE ONLY
Date Received

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

Waste Connections Lone Star, Inc.

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

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

None
Name of Officer

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

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

☐ Yes ☐ No

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

☐ Yes ☐ No

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

N/A

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

7

Signature of vendor doing business with the governmental entity

08/16/21
Date

Form provided by Texas Ethics Commission www.ethics.state.tx.us Revised 11/30/2015

CONFLICT OF INTEREST QUESTIONNAIRE
For vendor doing business with local governmental entity

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

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

(A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;

(B) a transaction conducted at a price and subject to terms available to the public; or

(C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

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

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

***

(2) the vendor:

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

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor;

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

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor.

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

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

(1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);

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

(3) has a family relationship with a local government officer of that local governmental entity.

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

(1) the date that the vendor:

(A) begins discussions or negotiations to enter into a contract with the local governmental entity; or

(B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or

(2) the date the vendor becomes aware:

(A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);

(B) that the vendor has given one or more gifts described by Subsection (a); or

(C) of a family relationship with a local government officer.

VIII. CODE OF ETHICS FOR HAYS COUNTY

Public employment is a public trust. It is the policy of Hays County to promote and balance the objective of protecting government integrity and the objective of facilitating the recruitment and retention of personnel needed by Hays County. Such a policy implemented by prescribing essential standards of ethical conduct without creating unnecessary obstacles to entering public services.

Public servants must discharge their duties impartially so as to assure fair competitive access to governmental procurement by responsible contractors. Moreover, they should conduct themselves in such a manner as to foster public confidence in the integrity of the Hays County procurement organization.

To achieve the purpose of this article, it is essential that those doing business with Hays County also observe the ethical standards prescribed here.

It shall be a breach of ethics to attempt to influence any public employee, elected official or department head to breach the standards of ethical conduct set forth in this code.

It shall be a breach of ethics for any employee of Hays County or a vendor doing business with the county to participate directly or indirectly in a procurement when the employee or vendor knows that:

The employee or any member of the employee's immediate family, or household has a substantial financial interest pertaining to the procurement. This means ownership of 10% or more of the company involved and/or ownership of stock or other interest or such valued at $2500.00 or more.

A business or organization in which the employee, or any member of the employee's immediate family, has a financial interest pertaining to the procurement.

Gratuities: It shall be a breach of ethics to offer, give or agree to give any employee of Hays County or for any employee to solicit, demand, accept or agree to accept from a vendor, a gratuity of consequence or any 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 controversy, any particular matter pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefore pending before this government.

Kickbacks: 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 Hays County as an inducement for the award of a contract or order.

Contract Clause: The prohibition against gratuities and kickbacks prescribed above shall be conspicuously set forth in every contract and solicitation therefore.

Any effort to influence any employee, elected official, or department head to violate the standards of the code is grounds to void the contract. Please certify, by your signature below, that you understand the ethics policy of Hays County and in no way will attempt to violate the code.

SIGNATURE:

PRINT NAME & TITLE: Alex Cantu - District Controller

COMPANY NAME: Waste Connections Lone Star, Inc.

IX. Hays County Practices Related to Historically Underutilized Businesses

1. STATEMENT OF PRACTICES

Hays County will strive to ensure that all businesses, regardless of size, economic, social or ethnic status have an equal opportunity to participate in the County's procurement processes. The County is committed to promote full and equal business opportunity for all businesses to supply the goods and services needed to support the mission and operations of county government, and seeks to encourage the use of certified historically underutilized businesses (HUB's) through the use of race, ethnic and gender neutral means. It is the practice of Hays County to involve certified HUBs to the greatest extent feasible in the County's procurement of goods, equipment, services and construction projects while maintaining competition and quality of work standards. The County affirms the good faith efforts who recognize and practice similar business standards.

2. DEFINITIONS

Historically underutilized businesses (HUBs), also known as a disadvantaged business enterprise (DBE), are generally business enterprises at least 51% of which is owned and the management and daily business operations are controlled by one or more persons who is/are socially and economically disadvantaged because of his/her identification as a member of certain groups, including women, Black Americans, Mexican Americans, and other Americans if Hispanic origin, Asian Americans and American Indians.

Businesses include firms, corporations, sole proprietorships, vendors, suppliers, contractors, subcontractors, professionals and other similar references when referring to a business that provides goods and/or services regardless of the commodity category.

Certified HUB's include business enterprises that meet the definition of a HUB and who meet the certification requirements of certification agencies recognized by Hays County, as expressed below.

Statutory bid limit refers to the Texas Local Government Code provision that requires competitive bidding for many items valued at greater than $50,000.

3. GUIDELINES

a. Hays County, its contractors, their subcontractors and suppliers, as well as all vendors of goods, equipment and services, shall not discriminate on the basis of race, color, creed, gender, age, religion, national origin, citizenship, mental or physical disability, veteran's status or political affiliation in the award and/or performance of contracts. All entities doing business or anticipating doing business with the County shall support, encourage and implement affirmative steps toward a common goal of establishing equal opportunity for all citizens and businesses of the County.

b. Vendors and/or contractors desiring to participate in the HUB program must successfully complete the certification process with the State of Texas or Texas Unified Certification Program. The vendor or contractor is also required to hold a current valid certification (title) from either of these entities.

c. Vendors and/or contractors must be registered with the State Comptroller's web-based HUB directory and with the Comptroller's Centralized Master Bidder's List (CMBL). Hays County will solicit bids from certified HUB's for state purchasing and public works contracts.

4. Hays County will actively seek and encourage HUBs to participate in all facets of the procurement process by:

    a. Continuing to increase and monitor a database of certified HUB vendors, professionals and contractors. The database will be expanded to include products, areas of expertise and capabilities of each HUB firm.

    b. Continuing to seek new communication links with HUB vendors, professionals and contractors to involve them in the procurement process.

    c. Continuing to advertise bids on the County's website and in the newspapers including newspapers that target socially and economically disadvantaged communities.

5. As prescribed by law, the purchase of one or more items costing in excess of the statutory bid limit must comply with the competitive bid process. Where possible, those bids will be structured to include and encourage the participation of HUB firms in the procurement process by:

    a. Division of proposed requisitions into reasonable lots in keeping with industry standards and competitive bid requirements.

    b. Where feasible, assessment of bond and insurance requirements and the designing of such requirements to reasonably permit more than one business to perform the work.

    c. Specifications of reasonable, realistic delivery schedules consistent with the County's actual requirements.

    d. Specifications, terms and conditions reflecting the County's actual requirements are clearly stated, and do not impose unreasonable or unnecessary contract requirements.

6. A HUB practice statement shall be included in all specifications. The County will consider the bidder's responsiveness to the HUB Practices in the evaluation of bids and proposals. Failure to demonstrate a good faith effort to comply with the County's HUB practices may result in a bid or proposal being considered non-responsive to specifications.

7. Nothing in this practice statement shall be construed to require the County to award a contract other than to the lowest responsive bidder as required by law. This practice is narrowly tailored in accordance with applicable law.

Please sign for acknowledgement of the Hays County HUB Practices:

Signature

08/17/21

Date

X. Hays County House Bill 89 Verification

I, Alex Cantu (Person name), the undersigned representative of Waste Connections Lone Star, Inc. (Company or Business name, hereafter referred to as Company) being an adult over the age of eighteen (18) years of age, after being duly sworn by the undersigned notary, do hereby depose and verify under oath that the company named above, under the provisions of Subtitle F, Title 10, Government Code Chapter 2270:

1. Does not boycott Israel currently; and
2. Will not boycott Israel during the term of the contract.

Pursuant to Section 2270.001, Texas Government Code:

1. *"Boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes; and*

2. *"Company" means a for-profit sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or any limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of those entities or business associations that exist to make a profit.*

Signature of Company Representative

8/18/21
Date

On this 18th day of August, 2021, personally appeared Alex Cantu, the above-named person, who after by me being duly sworn, did swear and confirm that the above is true and correct.

NOTARY SEAL

Diane Garcia
Notary Public in and for the State of Texas

08-18-2021
Date

DIANE GARCIA
Notary Public, State of Texas
Comm. Expires 02-22-2025
Notary ID 129319496

XI. Hays County Purchasing Department Senate Bill 252 Certification

On this day, I, ~~Alex Conta~~ Stephanie Hunt, the Purchasing Representative for Hays County in San Marcos, Texas, pursuant to Texas Government Code, Chapter 2252, Section 2252.152 and Section 2252.153, certify that I did review the website of the Comptroller of the State of Texas concerning the listing of companies that is identified under Section 806.051, Section 807.051 or Section 2253.253 and I have ascertained that the below-named company is not contained on said listing of companies which do business with Iran, Sudan or any Foreign Terrorist Organization.

Waste Connections Lone Star, Inc.
Company Name

IFB 2021-B12
IFB or Vendor number

CERTIFICATION CHECK PERFORMED BY:
Stephanie Hunt
Purchasing Representative

Nov. 2, 2021
Date

XII. Debarment and Licensing Certification

STATE OF TEXAS §
§
COUNTY OF HAYS §

I, the undersigned, being duly sworn or under penalty of perjury under the laws of the United States and the State of Texas, certifies that Firm named herein below and its principals:

a. Are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any federal department or agency;
b. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
c. Are not presently indicted for or otherwise criminally or civilly charged by a federal, state or local governmental entity with commission of any of the offenses enumerated in paragraph (1)(b) of this certification;
d. Have not within a three-year period preceding this application/proposal had one or more public (federal, state or local) transactions terminated for cause or default;
e. Are registered and licensed in the State of Texas to perform the professional services which are necessary for the project; and
f. Have not been disciplined or issued a formal reprimand by any State agency for professional accreditation within the past three years.

Waste Connections Lone Star, Inc.
Name of Firm

Signature of Certifying Official

District Controller
Title of Certifying Official

Alex Cantu
Printed Name of Certifying Official

8/18/21
Date

Where the Firm is unable to certify to any of the statements in this certification, such Firm shall attach an explanation to this certification.

SUBSCRIBED and sworn to before me the undersigned authority by Alex Cantu on this the day of 18th, 2021, on behalf of said Firm.

DIANE GARCIA
Notary Public, State of Texas
Comm. Expires 02-22-2025
Notary ID 129319496

Diane Garcia
Notary Public in and for the State of Texas

My commission expires: 02-22-2025

XIII. Vendor/Bidder's Affirmation

1. Vendor/Bidder affirms that they are duly authorized to execute this Contract, that this company, corporation, firm, partnership or individual has not prepared this bid in collusion with any other bidder, and that the contents of this bid as to price, terms or conditions of said bid have not been communicated by the undersigned nor by any employee or agent to any other person engages in this type of business prior to the official opening of this bid.

2. Vendor/Bidder hereby assigns to Purchaser any and all claims for overcharges associated with this Contract which arise under the antitrust laws of the United States, 15 USCA Section 1 et seq., and which arise under the antitrust laws of the State of Texas, Tex. Bus. & Com. Code, Section 15.01, et seq.

3. Pursuant to 262.0276 (a) of the Texas Local Government Code, Vendor/Bidder, hereby affirms that Vendor/Bidder:

   _____ Does not own taxable property in Hays County, or;

   ___✓___ Does not owe any ad valorem taxes to Hays County or is not otherwise indebted to Hays County

Waste Connections Lone Star Inc. (formerly Progressive Waste Solutions of TX)
Name of Contracting Company

If taxable property is owned in Hays County, list property ID numbers:

Personal Property - Containers in Various Locations : P130668, P92189, P129592

Signature of Company Official Authorizing Bid/Offer

Alex Cantu
Printed Name

District Controller
Title

alex.cantu@wasteconnections.com
Email Address

504-481-8979
Phone

XIV. Related Party Disclosure Form

Hays County strives to provide financial transparency to its taxpayers. Completion of this form will allow for added transparency into the procurement process by disclosing Vendor relationships with current or former Hays County employees. The existence of a relationship may not present a legal or ethical conflict for a Vendor. However, disclosure will allow for consideration of potential conflicts and/or ways to eliminate conflicts.

A Vendor who Employs any of the following is required to disclose the relationship on this form:

- Current Hays County employee (including elected or appointed official) (Complete Section A)
- Former Hays County employee who has been separated from Hays County for no less than four (4) years (including elected or appointed official) (Complete Section B)
- Person related within the 2nd degree of consanguinity or affinity to either of the above[1] (Complete Section C)

If no known relationships exist, complete Section D.

This form is required to be completed in full and submitted with the proposal package. A submitted proposal package that does not include this completed form will be considered non-responsive and will not be eligible for an award.

Section A: Current Hays County Employee

Employee Name Title

Section B: Former Hays County Employee

Employee Name Title Date of Separation from County

Section C: Person Related to Current or Former Hays County Employee

Employee or Former Employee Name Title

Name of Related Person Title Relationship

Section D: No Known Relationships

If no relationships in accordance with the above exist or are known to exist, provide a written explanation below:

No known relationships exist.

Attach additional pages if necessary.

I, the undersigned, hereby certify that the information provided is true and complete to the best of my knowledge.

Waste Connections Lone Star, Inc.
Name of Vendor

Signature of Certifying Official

District Controller
Title of Certifying Official

Alex Cantu
Printed Name of Certifying Official

08/17/21
Date

[1]A degree of relationship is determined under Texas Government Code Chapter 573. (as outlined below)

Relationship of Consanguinity				
	1st Degree	2nd Degree	3rd Degree*	4th Degree*
Person	child or parent	grandchild, sister, brother or grand-parent	great-grandchild, niece, nephew, aunt,* uncle* or great-grandparent	great-great-grandchild, grandniece, grandnephew, first cousin, great aunt,* great uncle* or great-great-grandparent
* An aunt, uncle, great aunt or great uncle is related to a person by consanguinity only if he or she is the sibling of the person's parent or grandparent.				

Relationship of Affinity		
	1st Degree	2nd Degree
Person	spouse, mother-in-law, father-in-law, son-in-law, daughter-in-law, stepson, stepdaughter, stepmother or stepfather	brother-in-law, sister-in-law, spouse's grandparent, spouse's grandchild, grandchild's spouse or spouse of grandparent

"Vendor" shall mean any individuals or entity that seeks to enter into a contract with Hays County.

"Employs" shall mean any relationship wherein Vendor has made arrangements to compensate an individual, directly or by way of a business organization in which the individual has a sharehold or ownership interest, even if that arrangement is contractual and/or on an hourly-charge basis.

XV. FHWA 1273 CERTIFICATION

I have read, understand, and agree to comply with the FHWA 1273 presented in Attachment C. Checking "YES" indicates acceptance, while checking "NO" denotes non-acceptance.

YES ✓ NO _____

Authorized Signature: _____

Printed Name and Title: Alex Cantu - District Controller

Respondent's Tax ID: 75-2545116 Telephone: 504-481-8979

If Respondent is a Corporation or other legal entity, please attach a corporate resolution or other appropriate official documentation that states that the person signing this Solicitation Response is an authorized person to sign for and legally bind the corporation or entity.

XVI. Appendix II – 2 CFR Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

(A) Contracts for more than the simplified acquisition threshold currently set at $150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(B) All contracts in excess of $10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be affected and the basis for settlement.

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of $2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of $100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the

requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of $150,000 must contain a provision that requires the non- Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201).

(I) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide Excluded Parties List System in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1986 Comp., p. 189) and 12689 (3 CFR Part 1989 Comp., p. 235), "Debarment and Suspension." The Excluded Parties List System in SAM contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

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

(K) § 200.322 Procurement of recovered materials—A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

I have read, understand, and agree to comply with the Federal Affirmations specified above. Checking "YES" indicates acceptance, while checking "NO" denotes non-acceptance.

YES ✓ NO _____

Authorized Signature: _____

Printed Name and Title: Alex Cantu - District Controller

Respondent's Tax ID: 75-2545116 Telephone: 504-481-8979

If Respondent is a Corporation or other legal entity, please attach a corporate resolution or other appropriate official documentation that states that the person signing this Solicitation Response is an authorized person to sign for and legally bind the corporation or entity.

UNANIMOUS WRITTEN CONSENT
OF THE SOLE DIRECTOR OF
WASTE CONNECTIONS LONE STAR, INC.

The undersigned, being the sole director of Waste Connections Lone Star, Inc., a Texas corporation, hereby consents to the following actions and adopts the following resolution pursuant to the Bylaws of this corporation:

> BE IT RESOLVED that Alex Cantu, District Controller of the Company, be, and he hereby is, authorized to sign and submit the Company's bid, and execute by and on behalf of the Company any and all agreements, instruments, documents or papers, as he may deem reasonably appropriate or necessary, pertaining to Solicitation No.: IFB 2021-B12 to provide countywide dumpster services for Hays County, Texas, as well as any contract documents that may result from the submission of this bid, and that any such action taken to date involving the above bid is hereby ratified and approved.

IN WITNESS WHEREOF, the undersigned sole director of Waste Connections Lone Star, Inc. has duly executed this Written Consent in The Woodlands, Texas on the date set forth opposite his name.

Dated: August 18, 2021

Worthing F. Jackman, Director

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 8/17/2021

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
Edgewood Partners Insurance Center
200 Glenridge Point Parkway
Suite 400
Atlanta GA 30342

CONTACT NAME: Certificate Unit
PHONE (A/C, No, Ext): 404-439-8000 **FAX (A/C, No):**
E-MAIL ADDRESS: certificate@epicbrokers.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : ACE American Insurance Company	22667
INSURER B : Indemnity Insurance Company of N A	43575
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

INSURED
Waste Connections Lone Star, Inc.
3 Waterway Square Place, Suite 110
The Woodlands, TX 77380

COVERAGES **CERTIFICATE NUMBER:** 1672227891 **REVISION NUMBER:**

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE [X] OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: [X] POLICY [ ] PRO-JECT [ ] LOC OTHER:	Y	Y	HDO G72492547	8/1/2021	8/1/2022	EACH OCCURRENCE	$ 2,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 100,000
							MED EXP (Any one person)	$
							PERSONAL & ADV INJURY	$ 2,000,000
							GENERAL AGGREGATE	$ 5,000,000
							PRODUCTS - COMP/OP AGG	$ 2,000,000
								$
A	AUTOMOBILE LIABILITY X ANY AUTO OWNED AUTOS ONLY HIRED AUTOS ONLY SCHEDULED AUTOS NON-OWNED AUTOS ONLY	Y	Y	ISA H25544717	8/1/2021	8/1/2022	COMBINED SINGLE LIMIT (Ea accident)	$ 5,000,000
							BODILY INJURY (Per person)	$
							BODILY INJURY (Per accident)	$
							PROPERTY DAMAGE (Per accident)	$
								$
	UMBRELLA LIAB [ ] OCCUR EXCESS LIAB [ ] CLAIMS-MADE DED [ ] RETENTION $						EACH OCCURRENCE	$
							AGGREGATE	$
								$
B A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N [N] N/A If yes, describe under DESCRIPTION OF OPERATIONS below	N/A	Y	WLR C67816389 (AOS) WLR C67816420 (CA, MA)	8/1/2021 8/1/2021	8/1/2022 8/1/2022	X PER STATUTE [ ] OTH-ER	
							E.L. EACH ACCIDENT	$ 1,500,000
							E.L. DISEASE - EA EMPLOYEE	$ 1,500,000
							E.L. DISEASE - POLICY LIMIT	$ 1,500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
RE: Solicitation No. IFB 2021-B12 - Countywide Dumpsters
Hays County, as its interests may appear, to the extent required by written contract, is additional insured with respect to General Liability and Automobile Liability. A waiver of subrogation applies in favor of the additional insured to the extent required by written contract as allowed by applicable law with respect to General Liability, Automobile Liability, and Workers' Compensation. 30 days notice of cancellation applies with the exception of 10 days notice for non-payment of premium applies to the extent required by written contract.

CERTIFICATE HOLDER
Hays County Auditor
Purchasing Office
712 S. Stagecoach Trail, Suite 1071
San Marcos TX 78666

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
Brenda M Ayers

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WASTE CONNECTIONS LONE STAR, INC.

DUNS Unique Entity ID	SAM Unique Entity ID	CAGE / NCAGE
788660590	**KD8ZRFMG7HC1**	**6U2J0**
Purpose of Registration	Expiration Date	Registration Status
All Awards	**Feb 10, 2022**	**Active**
Physical Address	Mailing Address	
4001 Old Denton RD **Haltom City, Texas 76117-2204** **United States**	**C/o Waste Connections US, INC.** **3 Waterway Square PLACE, Suite 110** **The Woodlands, Texas 77380** **United States**	

Business Information

Doing Business as	Division Name	Division Number
Waste Connections of Texas	**(blank)**	**(blank)**
Congressional District	State / Country of Incorporation	URL
Texas 12	**Texas / United States**	**(blank)**

Registration Dates

Activation Date	Submission Date	Initial Registration Date
Feb 13, 2021	**Feb 10, 2021**	**Jan 9, 2013**

Entity Dates

Entity Start Date	Fiscal Year End Close Date
Jun 17, 1994	**Dec 31**

Immediate Owner

CAGE	Legal Business Name
57R23	**WASTE CONNECTIONS US HOLDINGS, INC.**

Highest Level Owner

CAGE	Legal Business Name
L0B44	**WASTE CONNECTIONS, INC**

Executive Compensation

Registrants in the System for Award Management (SAM) respond to the Executive Compensation questions in accordance with Section 6202 of P.L. 110-252, amending the Federal Funding Accountability and Transparency Act (P.L. 109-282). This information is not displayed in SAM. It is sent to USAspending.gov for display in association with an eligible award. Maintaining an active registration in SAM demonstrates the registrant responded to the questions.

Proceedings Questions

Registrants in the System for Award Management (SAM) respond to proceedings questions in accordance with FAR 52.209-7, FAR 52.209-9, or 2.C.F.R. 200 Appendix XII. Their responses are not displayed in SAM. They are sent to FAPIIS.gov for display as applicable. Maintaining an active registration in SAM demonstrates the registrant responded to the proceedings questions.

SAM Search Authorization

I authorize my entity's non-sensitive information to be displayed in SAM public search results:

Yes

Entity Types

Business Types

Entity Structure	Entity Type	Organization Factors
Corporate Entity (Not Tax Exempt)	**Business or Organization**	**Foreign Owned**
Profit Structure		
For Profit Organization		

Financial Information

Accepts Credit Card Payments	Debt Subject To Offset
Yes	**No**

Points of Contact

Electronic Business

Maribel Thommes

4001 Old Denton RD
Haltom City, Texas 76117
United States

Government Business

Robert Cloninger

3 Waterway Square PLACE, Suite 110
The Woodlands, Texas 77380
United States

Maribel Thommes

4001 Old Denton RD
Haltom City, Texas 76117
United States

Service Classifications

NAICS Codes

Primary	NAICS Codes	NAICS Title
Yes	**562111**	**Solid Waste Collection**

Disaster Response

This entity does not appear in the disaster response registry.

Hays County Transition Plan

Personnel overseeing the transition "The Team":

- Greg Hee – Division Vice President
- David Montana – Commercial Supervisor
- Marc Olveda – Roll Off Supervisor
- Alex Cantu – District Controller

Proposed Approach and Schedule

- Approximately two to three weeks prior to the contract start date, the team will conduct a customer site survey at all Hays County locations to inspect where on site the dumpsters will be located, inspect enclosures, overhead wires, etc. to determine safe and efficient service location. As safety is our number 1 core value, we want to insure that we can service the locations in the safest manner possible not only for Hays County property, but for our drivers and equipment as well.
- After the site survey is completed and approximately one week prior to the contract start date, the team will deliver and stage our containers next to the current service provider's containers using our commercial container delivery trucks and trailers. The 40 yard roll off boxes and 35 yard compactor will be delivered by our roll off trucks. On the contract start date when the current service provider removes their containers, our containers will be moved into the proper place upon first service.

Customer Communication

- Prior to the delivery of our containers, the team will send a customized Waste Connections Welcome Kit to all of the current County locations. This Welcome Kit will be an introduction to who we are, the schedule of how we will be transitioning their waste service, point of contact for service increases/decreases or any issues.

Attachment A
IFB 2021-B12 Countywide Dumpsters
Bid Form

Respondent must provide its total bid amount by completing the mandatory bid form included as Attachment A: IFB 2021-B12 Bid Form. **Pricing should be based on per haul.** Note that Hays County has other locations that could need dumpster services in the future and the addition of these locations would fall under this contract, as well as and changes in current dumpster needs. At any point if the County deems the container size and/or frequency of pickups does not satisfy the needs of the County then we can request an increase in the frequency of pickups and/or a different size dumpster. All dumpster sizes and price per haul should be listed in below.

All pricing and fees shall include installation and removal of the container. Equipment required, fuel, labor, tipping fees, clean-up costs and all associated costs to perform this service efficiently and effectively.

Hays County is exempt from federal excise and state sales tax; therefore, tax must not be included in this bid.

ESTIMATED QUANTITIES: No warranty is given or implied by the County as to any components listed in this Bid and are considered to be estimates for the purpose of information only. The County reserves the right to accept all or any part of the bid and to increase or decrease quantities of Bidder's bid to meet additional or reduced requirements of the County.

ADDITIONAL ITEMS/DUTIES: The County may require additional items/duties of a similar nature, but not specifically listed in the contract. The Contractor agrees to provide such items/duties, and shall provide the County prices on such additional items or duties based upon a formula or method which is the same or similar to that used in establishing the prices in the bid. If the price(s) offered are not acceptable to the County, and the situation cannot be resolved to the satisfaction of the County, the County reserves the right to purchase those items from other vendors, or to cancel the contract upon giving the Contractor thirty (30) days written notice.

Current County Locations and Hauls

Dumpster Quantity & Size	Location	Qty. Hauls	Price per Haul	Price Add'l Hauls
3 each/8 yard	**5 Mile Dam** 4440 Old Stagecoach Road, San Marcos	2 x week (Tues. & Fri.)	$65.96	$65.96
1 each/35 yard compactor	**Government Center** 712 S. Stagecoach Trail, San Marcos	p/u as needed	$580	$580
1 each/8 yard	**Jacobs Well Natural Area** 1699 Mt. Sharp Road, Wimberley	1 x week (Mondays)	$28.87	$28.87
1 each/40 yard	**Jail** 1307 Uhland Road, San Marcos	1 x month	$400	$400
4 each/8 yard	**Jail** 1307 Uhland Road, San Marcos	4 x week	$78.96	$78.96
1 each/8 yard	**Juvenile Detention Center** 2250 Clovis Barker Lane, San Marcos	M-W-F	$23.79	$23.79
1 each/4 yard	**Juvenile Detention Center** 2250 Clovis Barker Lane, San Marcos	M-W-F	$17.78	$17.78
1 each/40 yard	**Precinct 1 Road Department** 1101 Civic Center Loop, San Marcos, TX	1 x month	$400	$400
1 each/8 yard	**Precinct 2 Offices** 5458 FM 2770, Kyle	1 x week	$28.87	$28.87
1 each/8 yard	**Precinct 3 Offices** 200 Stillwater Circle, Wimberley	1 x week	$28.87	$28.87
1 each/40 yard	**Precinct 4 Road Department (Barn)** 20290 FM 150 west, Driftwood	1 x month	$400	$400
2 each/8 yard	**Public Safety Building** 801 S. Stagecoach Trail, San Marcos	M-W-F	$42.86	$42.86
1 each/40 yard	**Road Department** 2171 Yarrington Road, San Marcos	1 x week	$400	$400
1 each/8 yard	**San Marcos Health Department** 401-A Broadway Street, San Marcos	1 x week	$28.87	$28.87
1 each/96 Gallon	**WIC Building** 150 E. Lockhart Street, Kyle	1 x week	$4.62	$4.62

What items are <u>not allowed</u> in dumpsters and are not included in the prices above? (Note: Any items not listed below will be considered allowable and included in the stated prices above.)

Item	Unit (each, haul, etc.)	Price
Hazardous Waste		
Radioactive Waste		
Explosive Waste		
Biomedical Waste		
Infectious Waste		
please see attached for further		

Hazardous waste not accepted.

Available Dumpster & Compactor Sizes and Price per dumpster for as needed basis, as well as for any future needs and/or disaster declaration events of the County:
(list all available dumpster sizes and the price to haul)

Dumpster & Compactor Size	Container Rental Fee (per month)	Price Per Haul	Price Add'l Hauls
96 gallon toter		$4.62	$4.62
2 yd		$15.24	$15.24
3 yd		$18.24	$18.24
4 yd		$21.02	$21.02
6 yd		$24.94	$24.94
8 yd		$28.87	$28.87
20 yd Roll off		$350	$350
30 yd Roll off		$375	$375
40 yd Roll off		$400	$400
35yd Compactor (perm only)	$275	$580	$580

The undersigned authority affirms that they are duly authorized to execute this contract, that this bid has not been prepared in collusion with any other bidder, and that the content of this bid has not been communicated to any other bidder prior to the official opening of this bid.

Company Name: Waste Connections Lone Star, Inc.

Printed Name: Alex Cantu

Signature: [signature]

Email Address: alex.cantu@wasteconnections.com

Phone: 504-481-8979

Waste Connections Lone Star Inc.

Dumpster Quantity & Size	Location	Qty. Hauls per week	Price per Haul	Total Cost of Hauls Weekly	Dumpster rental rate (monthly)	Total Dumpster Cost monthly	Price Add'l Hauls
3 each/8 yard	5 Mile Dam	2	$ 65.96	131.92		$ 6,859.84	$ 65.96
1 each/8 yard	JWNA	1	$ 28.87	28.87		$ 1,501.24	$ 28.87
4 each/8 yard	Jail	4	$ 78.96	315.84		$ 16,423.68	$ 78.96
1 each/8 yard	JDC	3	$ 23.79	71.37		$ 3,711.24	$ 23.79
1 each/4 yard	JDC	3	$ 17.78	53.34		$ 2,773.68	$ 17.78
1 each/8 yard	Pct. 2 Office	1	$ 28.87	28.87		$ 1,501.24	$ 28.87
1 each/8 yard	Pct. 3 Office	1	$ 28.87	28.87		$ 1,501.24	$ 28.87
2 each/8 yard	PSB	3	$ 42.86	128.58		$ 6,686.16	$ 42.86
1 each/40 yard	Road Department	1	$ 400.00	400.00		$ 20,800.00	$ 400.00
1 each/8 yard	SM Health Department	1	$ 28.87	28.87		$ 1,501.24	$ 28.87
1 each/96 gallon	WIC Building	1	$ 4.62	4.62		$ 240.24	$ 4.62
1 each/40 yard	Jail	1 x month	$ 400.00			$ 4,800.00	$ 400.00
1 each/40 yard	Pct. 1 Road Dept.	1 x month	$ 400.00			$ 4,800.00	$ 400.00
1 each/40 yard	Pct. 4 Road Department	1 x month	$ 400.00			$ 4,800.00	$ 400.00
1 each/35 yard compactor	Government Center	1 x month	$ 580.00		$ 275.00	$ 10,260.00	$ 580.00
					Yearly Cost	$ 88,159.80	

Waste Connections Lone Star, Inc. ("Contractor") offers the following items to be incorporated into the resulting contract and as exceptions to Solicitation No.: IFB 2021-B12 – Countywide Dumpsters (the "IFB") issued by Hays County, Texas (the "County"). Contractor's proposal is subject to and contingent upon these exceptions. These items are intended to identify areas of concern and remain negotiable. Along with the exceptions is some explanation to provide the County with Contractor's thoughts behind such exceptions. Contractor's bid submission is contingent upon and subject to the exceptions and objections contained herein. Specifically, Contractor objects, and does not agree, to any provision of the IFB to the extent such would require a penalty, fine, fee or forfeiture of a bond in the event that the parties are unable to agree on, and ultimately enter into a contract, the terms of this IFB after good faith negotiations, including the objections and exceptions contained herein. We appreciate your consideration and welcome the opportunity to work with you on reaching agreeable terms. Unless defined herein, capitalized terms shall have the meanings set forth in the IFB.

(1) Contractor takes a general exception to any requirement of the IFB requiring confidential, proprietary or otherwise privileged information, including financials, of the Contractor. Contractor is a subsidiary of Waste Connections, Inc. ("WCN"). WCN is a publicly traded company whose shares trade on the New York Stock Exchange. Periodic and annual financial information is reported to the U.S. Securities and Exchange Commission ("SEC"). Audited financial information is provided in WCN's annual Form 10-K and quarterly Form 10-Q filings with the SEC. Copies of WCN's periodic and annual filings are available online at www.sec.gov.

(2) Contractor makes the following objections to the Specifications contained in the IFB:

    a. Section B – Damage: Contractor objects to the extent it would require Contractor be liable or responsible for damage that is not caused by Contractor's negligence or willful misconduct.

(3) Contractor makes the following objections to the General Terms and Conditions for Solicitations:

    a. Contractor objects to Section 28 to the extent it would require Contractor indemnify County other than to the extent such damages, claims, losses, etc. are caused by Contractor's negligence or willful misconduct.

(4) In addition to the terms set forth in the IFB, the following concepts need to be incorporated into the final form of the resulting contract:

    a. Notwithstanding anything herein to the contrary: (a) Contractor shall have no obligation to collect any material which is or contains, or which Contractor reasonably believes to be or contain, radioactive, volatile, corrosive, highly flammable, explosive, biomedical, infectious, biohazardous, toxic or hazardous material as defined by applicable federal, state or local laws or regulations ("Excluded Waste"); (b) if Contractor finds what reasonably appears to be discarded Excluded Waste, Contractor shall promptly notify the County and the producer of the Excluded Waste, if the producer can be readily identified;

and (c) title to and liability for any Excluded Waste shall remain with the producer of the Excluded Waste, even if Contractor inadvertently collects or disposes of such Excluded Waste.

b. The County must comply with any description of and/or procedures with respect to removal of contaminants or preparation of recyclable materials as reasonably provided by Contractor. If the County fails to do so, Contractor may decline to collect such materials without being in breach of the contract. Contractor shall not be responsible for and has not made any representation regarding the ultimate recycling of such recyclable materials by any third party facilities.

c. Any equipment furnished hereunder by Contractor shall remain the property of Contractor; however, the customers and the County (as applicable) shall have care, custody and control of the equipment while at the service locations. Customers and the County shall not overload (by weight or volume), move or alter the equipment, and shall use the equipment only for its proper and intended purpose. Customers and the County must provide unobstructed access to the equipment on the scheduled collection day. The word "equipment" as used herein shall mean all containers used for the storage of non-hazardous solid waste.

d. Except for the payment of amounts owed hereunder, neither party hereto shall be liable for its failure to perform or delay in its performance hereunder due to contingencies beyond its reasonable control including, but not limited to, strikes, riots, compliance with laws or governmental orders, inability to access a container, fires, inclement weather and acts of God, and such failure shall not constitute a breach under the contract.

Red lines removed.

Alex Cantu - District Controller

12/6/21

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court
Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Accept contributions totaling $13,175.00 on behalf of the Hays County Child Protective Board and amend the budget accordingly.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
CONSENT	January 18, 2022	N/A

LINE ITEM NUMBER

001-895-98-354]

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR REVIEW:** MARISOL VILLARREAL-ALONZO

REQUESTED BY	SPONSOR	CO-SPONSOR
	INGALSBE	N/A

SUMMARY

The Hays County Child Protective Board has received contributions from the following agencies and individuals utilizing the county federal tax identification number as authorized:

$500 - West Family Trust-Ronald B West Trustee
$500 - Michael & Nicole Blair
$500 - Max & Debra Snapp
$5,000 - Kaare & Brenda Remme
$500 - Jane Hughson
$3,300 - The Dunagan Foundation, Inc.
$375 - City of Buda
$2,000 - First Presbyterian Church
$500 - E.B. Crook

The HCCPB will deposit these funds with the county as their pass-through agency. The funds will be allocated back to the agency to be utilized for operational expenses;
>Basic clothing
>Participation in extracurricular school activities and scholastic achievements
>Equipment and services to encourage and assist academic success and improve graduation rates
>Recognition of significant milestones
>Provide for physical and mental health services not covered by governmental programs
>Provide support for CPS case workers participation in professional training
>Increase public awareness of child abuse

Budget Amendment:
Increase Contributions: .4610
Increase Social Service Project Contributions: .5600

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Accept a Revised Fee Schedule for the Juvenile Detention Center related to GED Testing Fees for juveniles in the placement facility.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
CONSENT	January 18, 2022	N/A

LINE ITEM NUMBER

N/A

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR REVIEW:** MARISOL VILLARREAL-ALONZO

REQUESTED BY	SPONSOR	CO-SPONSOR
Brett Littlejohn	INGALSBE	N/A

SUMMARY

On February 27, 2018 the Commissioner's Court approved a fee schedule for the Juvenile Probation Department to administer GED tests for juveniles. The Juvenile Detention Center has now taken over the administration of the GED program. Additionally, effective September 1, 2021 the previous GED test (HiSet) was no longer offered in Texas which required a change in vendors (Pearson VUE) resulting in new testing fees. The attached fee schedule reflects the new costs associated with the testing to be billed to other County entities that have juveniles residing at the Hays County Juvenile Detention Center.

Attachment: Revised GED Testing Fee Schedule

Hays County Juvenile Detention
GED FEE SCHEDULE

New Vendor Computer based test fee
Each test $36.25 x 4 test = $145.00

Retest Policy
Two additional attempts for each – No cost
After two, initial fee must be paid again. No refund if GED is not completed.

Total fee must be paid prior to scheduling tests and can be paid by one of the following three methods:

- Pay Online at: http://www.certifiedpayment.net

- Pay by Phone at: 1-866-549-1010

- Pay by Mail w/money order payable to Hays County Juvenile Center
  and mailed to: 5220 Clovis Barker Road
  San Marcos, TX 78666

TOTAL = $145 per test taker to complete GED testing

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Authorize the execution of Resolution and submission of a grant application to the Office of the Governor, Criminal Justice Division, Justice Assistance Grant Program for the continuation of the Hays County Mental Health Crisis Intervention program in the amount of $58,405.90.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
CONSENT	January 18, 2022	N/A

LINE ITEM NUMBER

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR REVIEW:** N/A

REQUESTED BY	SPONSOR	CO-SPONSOR
T. CRUMLEY	SHELL	N/A

SUMMARY

The purpose of this grant project is to provide continued funding for a certified mental health professional position within the Sheriff's Office that would assess and provide resources to this in the field who are experiencing a crisis.

Total project costs $58,405.90
Project Date: October 1, 2022 - September 30, 2023.

Grant number 3825003.

Resolution

STATE OF TEXAS §
COUNTY OF HAYS §

WHEREAS, The Hays County Commissioners Court finds it in the best interest of the citizens of Hays County, that the Hays County Mental Health Crisis Intervention be operated in the 2023 year; and

WHEREAS, The Hays County Commissioners Court agrees to provide applicable matching funds for the said project as required by the Office of the Governor, Criminal Justice Division, Criminal Justice Program application; and

WHEREAS, The Hays County Commissioners Court agrees in the event of loss or misuse of the Office of the Governor funds, the Hays County Commissioner's Court assures that the funds will be returned to the Office of the Governor in full.

WHEREAS, The Hays County Commissioners Court designates Ruben Becerra, Hays County Judge as the grantee's authorized official. The authorized official is given the power to apply for, accept, reject, alter or terminate the grant on behalf of the applicant agency.

NOW THEREFORE, BE IT RESOLVED that the Hays County Commissioners Court approves the submission of the grant application for the Hays County Mental Health Crisis Intervention to the Office of the Governor.

ADOPTED THIS THE 18th DAY of JANUARY 2022

_____
Ruben Becerra
Hays County Judge

Grant Number: 3825003

ATTEST:

_____
Elaine Cardenas, MBA, PhD
Hays County Clerk

Office of the Governor
Public Safety Office –CEO/Law Enforcement Certifications and Assurances Form

Entity Name: Hays County	**Date:** 01/18/2022
Agency/Department Name: Hays County Sheriff's Department	
Name of Chief Executive Officer: Judge Ruben Becerra	
Name of Head of Law Enforcement Agency: Sheriff Gary Cutler	

Certification Required by CEO and Head of Law Enforcement Agency

In our respective capacities as chief executive officer of Hays County ("Grantee") and as head of Hays County Sheriffs Office ("Agency"), we hereby each certify that Grantee and Agency participate fully, and will continue to participate fully from the date of this certification until the later of August 31, 2023 or the end of the grant project period, in all aspects of the programs and procedures utilized by the U.S. Department of Homeland Security ("DHS") to: (1) notify DHS of all information requested by DHS related to illegal aliens in Agency's custody; and (2) detain such illegal aliens in accordance with requests by DHS.

We further certify that Grantee and Agency do not have, and will continue not to have until the later of August 31, 2023 or the end of the grant project period, any policy, procedure, or agreement (written or unwritten) that in any way limits or impedes Agency's receipt or DHS's issuance of detainer requests, or in any way limits or restricts Grantee's and Agency's full participation in all aspects of the programs and procedures utilized by DHS to: (1) notify DHS of all information requested by DHS related to illegal aliens in Agency's custody; and (2) detain such illegal aliens in accordance with requests by DHS.

Additionally, we certify that neither Grantee nor Agency have in effect, purport to have in effect, or are subject to or bound by any law, rule, policy, or practice (written or unwritten) that would: (1) require or authorize the public disclosure of federal law enforcement information in order to conceal, harbor, or shield from detection fugitives from justice or aliens illegally in the United States; or (2) impede federal officers from exercising authority under 8 U.S.C. § 1226(a), § 1226(c), § 1231(a), § 1357(a), § 1366(1), or § 1366(3).

Lastly, we certify that Grantee and Agency will comply with all provisions, policies, and penalties found in Chapter 752, Subchapter C of the Texas Government Code.

We acknowledge that failure to comply with this certification may result in OOG, in its sole discretion, terminating any grant made by OOG to Grantee, and that Grantee must return all funds received from OOG for any grant terminated under this certification. We further acknowledge that Grantee will remain ineligible for OOG funding until it provides satisfactory evidence that the jurisdiction has complied with this certification for at least one year.

Signature
Chief Executive Officer for Grantee

Signature
Head of Agency

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Authorize the County Judge to execute a service agreement with Cornerstone Detention Products Inc. for the security system located at the Jail.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
CONSENT	January 18, 2022	$38,076.00

LINE ITEM NUMBER

001-618-03.5451 Building Maintenance & Repair

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: YES **AUDITOR REVIEW:** MARISOL VILLARREAL-ALONZO

REQUESTED BY	SPONSOR	CO-SPONSOR
Sheriff Gary Cutler	INGALSBE	N/A

SUMMARY

The Jail requests the County Judge to execute a service agreement with Cornerstone Detention Products, Inc. for the security and camera system. The start date of the agreement is January 1, 2022, and runs through September 2022, with renewal contract year periods up to four years. Fiscal impact for FY 2022 is $38,076; funding is available in the Jail's Building Maintenance & Repair general ledger.

Attachments: Proposal No. HAYS03052021, GSA Schedule 84# GS-07F-269AA

HAYS12132021

TO:	**Hays County**	**From:**	**Brian Burleson** **bburleson@cornerstonedetention.com** **256-560-4434** **Cornerstone Detention Products, Inc.**
(Customer)	**Erica Hernandez** **512-393-6780** **erica.hernandez@co.hays.tx.us**	(Contractor)	**2391 NE Loop 410, Ste. 208** **San Antonio, TX 78217**
Facility Location:	**Hays Co Jail** **1307 Uhland Road** **San Marcos, TX 78666**	**Proposal No.:** **Proposal Date:**	**HAYS12132021** **December 13, 2021**

GSA Schedule 84 # GS-07F-269AA

Cornerstone Service Agreement Terms and Conditions

SCOPE AND DEFINITION OF SERVICES: The services provided shall be those indicated on the face hereof or as set forth in Attachment "A" and will be performed during Cornerstone's normal working hours, unless otherwise agreed. Cornerstone Detention Products, Inc. herein is referred to as "Contractor".

Cornerstone Detention Products, Inc. (The Contractor) will furnish its services as an independent contractor and not as an employee of Customer. It is agreed that the Contractor will take reasonable care and precautions in the performance of its work, and that Customer will maintain all necessary and required insurance coverage to protect itself against damage or injury to persons or property.

COVERAGE:

1. Base Contract as described in Attachment "A"

   - 24/7/365 support of all covered systems.
   - Response time as appropriate for critical outages.
   - Telephone technical support with direct access to our after-hours on-call technician via Cornerstone's 24-hour emergency service phone number.
   - Priority service over noncontract Customers.
   - Discounted pricing for purchases when available.
   - Reduced labor rates from non-contract customers.
   - 40-presold service hours

2. Preventive Maintenance Service Options as per Attachment "A" of this agreement (If Selected)

EXCLUSIONS:

1. Replacement parts are not included as part of this Agreement. If parts are required, they will be charged at a discount from the Manufacturer's list price (if discounts are available to the Contractor).
2. The Contractor will not warrant materials provided by others under this Agreement.
3. Lift. Customer will need to provide a lift, where necessary, for access to the exterior cameras and cameras that cannot be reached with a 10' ladder.

TERM: The commencement date of this Agreement shall be on the first day of **January 2022** and shall run through September 30, 2022 for an initial term, with renewal Contract Year Periods for up to 4 Years. The Agreement shall be automatically renewed each October 1st for the next Contract Year Period of the Agreement unless otherwise terminated by either party by giving written notice to the other at least ninety (90) days prior to the end of the current Contract Year Period.

PAYMENT: The Customer shall pay to the Contractor the total base price as illustrated in the payment table below. As part of this Agreement, for labor and material required outside of the scope of services in Attachment "A", Customer agrees to make payment of invoices for the base price services as well as for any invoices representing work outside the base scope outline in Attachment "A" within thirty (30) days of the date of the invoice. The Contractor reserves its right to refuse service or cancel this Agreement at any time that payments become delinquent.

Service Rates: Portal-to-portal maintenance service hours can be pre-purchased at rate of $105.00 per hour (see "Emergency Presold Hours" below). If presold hours have been expended, additional labor hours will be billed at a rate of $150 per hour for Contract Customers. **Noncontract Customers shall be billed at the Contractor's standard service rate of $195 per hour.** Weekends, holidays, and after hour service call rates shall be calculated at 1.5 times the billed rate (pre-purchased hours are exempt from this calculation).

* If an Applications Engineer is required, these services are invoiced at $250 per hour portal-to-portal plus associated travel expenses from the local service office.

	Annual Cost	Quarterly Payment	Contract Period	10/1/2022
Year 1	$49,050.00	$12,691.69	1/1/2022	9/30/2022
Year 2	$59,980.00	$15,519.83	10/1/2022	9/30/2023
Year 3	$61,779.40	$15,985.42	10/1/2023	9/30/2024
Year 4	$63,632.78	$16,464.98	10/1/2024	9/30/2025
Year 5	$65,541.77	$16,958.93	10/1/2025	9/30/2026

- Base Contract includes a package of Forty (40) pre-sold service hours. Presold hours are used for emergency service calls. These hours can be used anytime (day, night, weekend, holiday). Presold hours do not roll over and unused presold hours expire at the end of each contract year. Presold hours are sold at a $105 per hour rate and are used portal-to-portal. Pre-sold packages start at 40-hours.

Option No. 1 - Additional Emergency Pre-Sold Hours package (40 Pre-sold Service Hours).

Option 1 - ADD $4,200.00

Option No. 2 – Service Material Allowance, Allowance that can be added to the Base Contract for material purchases to service the systems. (This allowance does not roll over)

Option 2 – ADD $5,000.00
**While the prices for the additional options are listed above, Customer is not currently selecting and/or utilizing any such options.*

CLARIFICATIONS:

1. When systems reach end-of-life, or parts to support the systems are no longer available from the manufacturer, The Contractor will provide a proposal for an update path/plan that will be supportable with manufacturers current product.

SERVICES OUTSIDE THIS CONTRACT: As part of this Agreement, for labor and material required outside of the scope of services in Attachment "A", Customer will be billed at a standard contract hourly straight time rate of $150.00 per hour plus materials and related travel costs. Such travel costs will be governed by the GSA CONUS guidelines as published for the current fiscal year in which the travel occurs: https://www.gsa.gov/travel/plan-book/per-diem-rates/per-diem-rates-lookup. If the Customer requires work to be done on weekends, holidays, or after normal working hours rates shall be calculated at 1.5 times the billed rate unless otherwise negotiated and agreed to by both parties. If an Applications Engineer is required, these services are invoiced at $250 per hour portal-to-portal plus associated travel expenses from the local service office. In the event an outside sub-contractor is required, the Customer will be invoiced cost plus 25%.

In any case, all extra work, material or labor required or requested beyond base price scope shall require specific authorization from the Customer prior to any work being done by the Contractor.

A late charge in the amount of 1.5 % per month or the highest legal rate, may be assessed against any balance past due for more than thirty (30) days together with all costs incurred in collection of overdue amounts.

Failure to pay any amount due within sixty (60) days shall be a material breach and the Contractor shall be discharged from any further obligations under this Agreement.

TAXES: Customer shall bear the cost of any sales, consumer use, excise, or other tax applicable to the services provided hereunder.

ACCESS: Customer agrees to provide free access to the systems and equipment to be maintained, and to provide the necessary equipment to reach inaccessible equipment and peripheral devices (e.g. scaffolding, man lifts etc.). The Contractor shall be provided a safe work place for its personnel.

FORCE MAJEURE: The Contractor shall not be responsible for failure to render service due to causes beyond its control including but not limited to lack of payment, work stoppages, fires, civil disobedience, riots, rebellions, acts of God and other similar occurrences where the safety of personnel cannot be maintained.

DEFAULT: If either party fails to perform any of the terms of this Agreement and the failure continues for more than thirty (30) days after written notice; if either party's occupational business license shall terminate for any reason; if either party shall become insolvent or file bankruptcy; or if either party makes any assignment of this Agreement without the other party's consent, then such non-breaching party shall have the right to terminate the Agreement for default which shall be effective thirty (30) days after written notice of such termination**.**

INDEMNIFICATION: Each party shall indemnify and hold the other party harmless from all claims resulting from the services provided under this Agreement except where such claims result from the sole negligence of either party.

LIMITATION OF LIABILITY: In no event shall the Contractor be liable for any special, indirect, incidental, or consequential damages whatsoever.

TERMINATION: Either party shall have the right to terminate their obligations under this Agreement at the end of the term or at the end of any subsequent year period provided that the party terminating the Agreement shall provide ninety (90) days written notice prior to the end of the then current year period. The Contractor shall be paid in full for all work performed and costs incurred prior to the date of termination.

GOVERNING LAW AND VENUE: This Agreement shall be construed and enforced in accordance with the laws of the State of Texas. Venue for any claims or controversies arising from or in relation to this Agreement lie in Hays County, Texas or the United States District Court--Western District of Texas, if applicable.

ENTIRETY OF AGREEMENT: This Agreement is the entire and exclusive agreement for the services to be provided herein. This Agreement supersedes and otherwise renders null and void any prior written or oral agreements entered with respect to the services provided herein. This Agreement shall only be modified in writing and signed by both parties.

Signature Page

Customer
Approved by Authorized Representative

Date:_____

Signature: _____

Print Name: _____

Title:_____

Proposal No.: _xxxxxxxxx_____

Cornerstone Detention Products, Inc.
Approved by Authorized Representative

Date: _____

Signature: _____

Print Name: _Brian Burleson_____

Title: _South Central Sales Manager_____

Date:__xxxxxxxx_____

Option No. 1 Acceptance _____

Option No. 2 Acceptance _____

Proposal No.: HAYS12132021
Date: December 13, 2021

ATTACHMENT "A"

Maintenance Agreement Options

Base Contract

COVERAGE:

1. **Base Maintenance included in this Agreement.**

   This contract commences on January 1, 2022, and runs through September 30, 2022, for the first term period. Subsequent periods start each October 1st and run through September 30th of the followingyear.

   a. Telephone technical support
      i. Critical services/outages – 1-hour return call response time.
      ii. Non-critical services – next business day return call response time.
      iii. Remote technical system access. Minimum 2-hours initial connection then assessed in one-hour increments after that. Billed at the standard contract straight time hourly service rate.

   b. On-site technical support (Base includes Forty (40) pre-sold service hours at a $105/hour rate. After the pre-sold hours are expired any additional hours are billed at the standard contract straight time hourly rate of $150/hour)
      i. Critical services/outages – 12-hour on-site response time.
      ii. Non-critical services – response time as mutually agreed to by Contractor and Customer based on issue.
   c. Priority service over noncontract Customers.
   d. Discounted pricing for purchases when available.
   e. Reduced labor rates from non-contract customers. Rate sheet attached for reference.
   f. Specific software/license support

2. **Systems covered under this Maintenance Agreement are:**
   a. PLC door control software / interlock equipment
   b. Computers with SCADA – Touch Screen Monitors, Wonderware software,
   c. Intercom system
   d. CCTV video camera system (servers/storage, switches, clients), PTZ controller
   e. Detention swing doors and slider devices, detention locks / food pass hardware, etc.

Included Services

Electronic Systems Preventive Maintenance Service (yearly):

a. **Electronics PMS (one visit per year)**:
   i. Programmable Logic Control System
      1. Back up each PLC CPU and turn data over to the Customer once per the contract term to be completed upon execution of the contract
      2. Input voltage check at each system
      3. Ensure all cards are securely seated.
      4. Removal of dust and contamination accumulation
   ii. Touch Screen System
      1. Removal of all exterior and interior dust/contamination accumulation on PCs (requires down time)
      2. Check CPU power supply and cooling fans for proper operation
      3. Ensure all cards are securely seated
      4. Calibrate Touch Screen monitor
   iii. Intercom System
      1. Input voltage check at each system
      2. Equipment ambient temperature check
      3. General sound level and quality in each area
      4. Removal of dust and contamination accumulation on the head-end equipment
   iv. Closed Circuit Television (CCTV) System
      1. Check all power supplies for proper output voltages
      2. Verify that all cameras are properly focused/aligned; adjust as necessary
      3. Surface clean all viewing monitors of dust and contamination accumulation
      4. Test keyboards for proper functions to include PTZ functionality
      5. Clean exterior camera domes as necessary
      6. Clean interior camera domes as necessary
      7. Clean or replace air filters in DVR units from customer's spare parts

Detention Equipment Preventive Maintenance Service (yearly):

a. **Detention PMS (two 50% visits per year):**
   i. Detention Swing Door Devices
      1. Visual inspection of doors and locks for wear and tear
      2. Test functionality of locking device, (internal lock parts replacement shall not be performed on site, factory refurbishment shall be necessary, this is at a cost to the customer).
      3. Test/adjust lock and DPS/LPS
      4. Clean and lubricate as necessary, (Per manufacturers specifications).
      5. Test/adjust all door closures as necessary

   ii. Detention Sliding Door Devices
      1. Check and lubricate locking mechanism
      2. Check bottom guide wear pads
      3. Clean roller track
      4. Adjust lock bars, door drive brackets, & rollers as necessary
      5. Check and adjust DPS/LPS, and limit switches as necessary

Contractor will provide the Customer with a telephone directory containing the names and numbers of the Service Manager, and On-Call Service Technicians. Contractor will also provide the phone number to the off hours answering service. Access to the on-call emergency number is available 24 hours per day, 7 days per week.

In the event of an emergency during normal business hours (Mon-Fri, 7am-4pm), the Customer will call Contractor's main office number and report a service request. For after-hours support, the Customer will contact Contractor's on-call service technician via the telephone.

Contractor will identify and recommend critical spare components for the Customer to purchase and keep on site. In the event of system failure, Contractor will use the Customer's spare parts for system restoral. If adequate parts are not available, Contractor will arrange for delivery of materials by the fastest means possible to affect timely repairs.

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Authorize the County Judge to execute a Contract Termination Notice with Clifford Power Systems, Inc. related to the Generator Maintenance Agreement

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
CONSENT	January 18, 2022	

LINE ITEM NUMBER

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR REVIEW:** MARISOL VILLARREAL-ALONZO

REQUESTED BY	SPONSOR	CO-SPONSOR
Tammy Crumley	BECERRA	N/A

SUMMARY

The Contract Agreement that Hays County has with Clifford Power Systems, Inc. auto renews each year. On January 4, 2022 Commissioners Court approved to execute an agreement with Waukesha-Pearce Industries, Inc. for all generator maintenance and repair services.

Attached:
Termination Notice: Clifford Power Systems, Inc.
Exhibit A: Clifford Power Systems, Inc. Generator Maintenance Agreement

Office of General Counsel
Hays County Historic Courthouse
111 East San Antonio Street, Suite 202
San Marcos, Texas 78666
(512) 393-2219
Fax (512) 392-6500

January 14, 2022

Clifford Power Systems, Inc.
4918 Burleson Road
Austin, TX 78744

Re: Termination of Planned Maintenance Agreement

Dear Mrs. Gaynes,

Pursuant to Section 8 of the Planned Maintenance (PM) Agreement (the "Agreement"), attached as "Exhibit A," for planned maintenance of the generator located at 712 S. Stagecoach Trail, San Marcos, TX, the Agreement may be cancelled by either party with a thirty (30) day written notification. Please accept this letter as Hays County's notice of cancellation, effective February 14, 2022. Thank you for the service you have provided to Hays County.

Sincerely,

Jordan M. Powell
Assistant General Counsel

Signature	Company
Printed Name	Date

Approved by the Hays County Commissioners Court on: _____

Ruben Becerra
Hays County Judge

CLIFFORD POWER

PLANNED MAINTENANCE (PM) AGREEMENT

Clifford Power Systems, Inc. ("CPS") agrees to provide **HAYS COUNTY** ("Customer"), and Customer agrees to accept and pay for parts and services necessary to perform periodic Planned Maintenance ("PM") of ("Equipment").

Customer Address: 712 S. Stagecoach Trail **City:** San Marcos **ST:** TX **ZIP:** 78666

EQUIPMENT				SEMI-ANNUAL PM	2 HR LOAD BANK
Generator : CAT	M/N: D100-8	S/N: CN600178	Spec: 100kW	$691	$550
Generator: GENERAC	M/N: 3177150200	S/N: 2072096	Spec: 180kW	$814	$670

This agreement will be in accordance to the following terms and conditions, for a period of three (1) year.

In consideration of the agreements herein contained:

1. **Customer agrees to:** Remit the full annual amount of **$ 1,505.00** payable prior to the initial maintenance inspection service performed by CPS. Customer will receive a copy of CPS maintenance inspection report with all applicable areas filled out by the service technician. ***Customer also agrees to pay all applicable taxes and environmental fees.***

2. **CPS agrees to:** Perform PM inspections of Equipment **2** times per year at approximate **6** month intervals. Work to be performed during regular business hours **8:00AM to 5:00PM Monday through Friday**. All applicable items of Equipment shall be inspected and reported to the Customer. CPS shall also report any noted problems with Equipment and recommended courses of corrective action to the Customer. CPS will perform normal maintenance on Equipment including oil and filter changes. The following are maintenance service intervals for filter and fluid changes, and other services not performed at every inspection. ***All applicable items will be performed or checked at the first inspection after this agreement is accepted.***

INCLUDED PM ITEMS

A. Oil change once per year.	B. Oil filter change at time of oil change.
C. Fuel filter change (if applicable) once per year.	D. Oil analysis will be done (by outside laboratory) at time of oil change.
E. Coolant maintenance as necessary. Includes testing for freeze point & inhibitor levels. Conditioners added as needed.	

OPTIONAL PM SERVICE & APPLICABLE CHARGES

F. Perform 2 hour Load Bank Test at time of PM visit on the (2) units. **$ 1,220.00 cost** ____ Accept ____ Decline Performed Annually — Initial Appropriate Line	G. Perform contaminant testing on (2) fuel tanks at time of PM visit. **$ 550.00 cost** ____ Accept ____ Decline Performed Annually — Initial Appropriate Line

3. **Customer authorizes:** CPS to perform repairs deemed necessary for proper operation of the standby power system at time of inspection. The cost of repairs shall not exceed **$**_____ ($500 recommended) without customer authorization, and shall be documented on the inspection report. Repairs estimated to exceed this amount would be referred to the Customer for action and additional authorization. Cost for additional repairs will be charged at CPS prevailing labor rates plus parts costs and prevailing mileage rates (if additional trips are required).

4. **Customer authorizes:** CPS to perform a Diesel Fuel Top-off Service for an amount not exceed **$**_____ ($600 recommended) without customer authorization. This service shall be documented on the inspection report. Cost for fuel service will be charged at CPS prevailing labor and fuel rates. Service Trucks are capable of providing up to 100 gallons, if approved pricing covers costs.

5. **CPS warrants its work:** For a period of thirty (30) days from the date of service. This warranty is limited to failure as a result of workmanship and does not include failures resulting from improper or unauthorized installation, misuse, negligence, accident, over-loading, over-speeding, repairs made by someone other than CPS, fire, flood, vandalism, theft or any other acts beyond the control of CPS

6. **Failures of new parts installed by CPS:** Failure of any new part/s installed by CPS during the course of maintenance service shall be covered by the manufacturer's warranty of said part/s.

7. **Renewal:** This agreement will automatically renew at the completion of the agreement period unless cancelled per paragraph 8.

8. **This agreement may be cancelled by either party:** With a thirty (30) day written notification.

9. **Insurance: Limitation of Liability-** Clifford Power System, Inc. shall, at all times during the term of this agreement, maintain commercial general liability insurance in amounts that are typical of the industry in which it operates. CPS shall provide Customer with a current copy of its commercial general liability insurance declaration page on or about the Effective Date of this Agreement. CPS's liability under this agreement, if any, shall be limited to the coverages provided by its commercial general liability insurance or, if no coverage pertains to the liability in question, the contract amount of this agreement. In no event shall CPS be liable to Hays County for any consequential, incidental or exemplary damages, including, but not limited to, loss of profits or down time.

CPS and Customer have agreed to the above this day.

By: _____
Customer-Representative

Date: 4/26/18

By *Candace Jaynes*
CPS-Representative

Date: 2/07/2018

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court
Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Authorize the Elections Administration Office to purchase video streaming equipment for elections and amend the budget accordingly.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
CONSENT	January 18, 2022	$2,518

LINE ITEM NUMBER

001-655-00]

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: YES **AUDITOR REVIEW:** MARISOL VILLARREAL-ALONZO

REQUESTED BY	SPONSOR	CO-SPONSOR
Jennifer Anderson	JONES	N/A

SUMMARY

The passage of SB 1 in the 87th third Special Session, requires certain election activity to be video recorded and live streamed for a specified period. This equipment will be installed to ensure we comply with this new statute of the Texas Election Code in the Primary of 2022. This equipment will be moved to the property at 120 Stagecoach Trail to satisfy the code in that location upon relocation of the Elections Department. IT has been consulting with our department on this project.

$ 720 - Qty 8 - MOKOSE Mini SDI Cameras HD-SDI 2 MP 1080P - (procurement Amazon Business)
$1,798 - Qty 2 - Magewell Pro Capture Quad SDI Video Capture - (procurement Amazon Business)

Budget Amendment:
$ 720 - Increase Elections Data Supplies .5202
$1,798 - Increase Computer Equipment_Ops .5712_400
($2,518) - Potential Funding Source County Wide Contingencies 001-645-00.5399

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Approve specifications for RFP 2022-P06 Emergency Rental Assistance Program - Program Manager and authorize Purchasing to solicit for bids and advertise.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
CONSENT	January 18, 2022	

LINE ITEM NUMBER

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR REVIEW:** N/A

REQUESTED BY	SPONSOR	CO-SPONSOR
Tammy Crumley	INGALSBE	SMITH

SUMMARY

Hays County (County) is soliciting for a qualified firm for Program Management Services for the Emergency Rental Assistance Program for Hays County taxpayers.

Attached:
Solicitation: RFP 2022-P06 Emergency Rental Assistance Program - Program Manager

SOLICITATION, OFFER AND AWARD

Hays County Auditor
Purchasing Office
712 S. Stagecoach Trail, Suite 1071
San Marcos, Texas 78666

Solicitation No.: RFP 2022-P06 Emergency Rental Assistance Program – Program Manager	**Date Issued: January 20, 2022**

SOLICITATION

Vendors must submit proposals as listed: One (1) original and one (1) digital copy on a thumb drive at the Hays County Purchasing Office at the address shown above or Electronically through BidNet Direct and one (1) hard copy at the Hays County Purchasing Office at the address shown above until:

1:00 p.m. local time February 10, 2022.

Proposals received after the time and date set for submission will be returned unopened.

For information please email: purchasing@co.hays.tx.us	Questions concerning this RFP must be received in writing no later than 5:00 on February 2, 2022.	Phone No.: (512) 393-2283

OFFER (Must be fully completed by Respondent)

In compliance with the above, the undersigned offers and agrees to furnish all items or services awarded at the prices stipulated for each item delivered at the designated point(s) and within the time specified herein. Award shall include all solicitation documents and attachments.

MANUALLY SIGN ALL COPIES SUBMITTED. SIGNATURE IS MANDATORY.

Respondent		Respondent's Authorized Representative	
Entity Name: Mailing Address:		Name: Title: Email Address: Phone No.:	
Signature:		Date:	
Name, Email Address and Phone No. of person authorized to conduct negotiations on behalf of Respondent:			

NOTICE OF AWARD (To be completed by County)

Funding Source:	Awarded as to item(s):	Contract Amount:
Vendor:		Term of Contract:
This contract issued pursuant to award made by Commissioners Court on:	Date:	Agenda Item:

Important: Award notice may be made on this form or by other Authorized official written notice.

_____ _____
Hays County Judge Date

_____ _____
Hays County Clerk Date

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Attachment A: Cost Proposal

Attachment B: FHWA-1273

I. RFP Submittal Checklist

This checklist is provided for the Vendor's convenience and identifies documents that MUST be submitted for the bid/proposal/SOQ to be considered responsive, as well as the required forms requested by Hays County.

A COMPLETE SOLICITATION RESPONSE PACKAGE INCLUDES:

The following forms MUST be returned for the bid/proposal/SOQ to be considered responsive:

____ 1. Solicitation, Offer and Award Form completed and signed, and Proposal

____ 2. Attachment A: Cost Proposal

____ 3. Vendor Reference Form

Required Forms by Hays County:

____ 1. Conflict of Interest Questionnaire completed and signed

____ 2. Code of Ethics signed

____ 3. HUB Practices signed

____ 4. House Bill 89 Verification signed and notarized

____ 5. Senate Bill 252 Certification

____ 6. Debarment & Licensing Certification signed and notarized

____ 7. Vendor/Bidder's Affirmation completed and signed

____ 8. Appendix II – 2 CFR Part 200

____ 9. FHWA – 1273 Certification

____ 9. Related Party Disclosure Form

____ 10. System for Award Management (www.SAM.gov) Entity Registration Page

____ 11. Any addenda applicable to this solicitation

Hays County will accept bids/proposals/SOQ, by the stated due date by one of the following methods:

____ 1. Electronic Submission of Bid Packet through BidNet Direct and one (1) hard copy or

____ 2. One original of the statement of qualifications and a digital copy on a thumb drive are in a sealed envelope with the Solicitation Number and Vendor's Name on the outermost envelope, addressed to:

Hays County Purchasing
712 S Stagecoach Trail, Suite 1071
San Marcos, TX 78666

II. Summary

1.	**Type of Solicitation:**	Request for Proposal (RFP)
2.	**Solicitation Number:**	RFP 2022-P06 Emergency Rental Assistance Program – Program Manager
3.	**Issuing Office:**	Hays County Auditor Purchasing Office 712 S. Stagecoach Trial, Suite 1071 San Marcos, TX 78666
4.	**Responses to Solicitation:**	Sealed proposals marked with Solicitation Number and Vendor Name on the outermost envelope One (1) Original and one (1) digital copy on a thumb drive, or Electronic Bid packets can be submitted through BidNet Direct and one (1) hard copy is required to be received.
5.	**Deadline for Responses:**	In issuing office no later than: **February 10, 2022; 1:00 p.m. Central Time (CT)**
6.	**Initial Contract Term:**	March 2022 – until project completion
7.	**Optional Contract Terms:**	none
8.	**Designated Contact:**	Hays County Purchasing Email: purchasing@co.hays.tx.us
9.	**Questions & Answers:**	Questions regarding this solicitation must be made in writing and submitted to the designated contact above no later than Wednesday February 2, 2022; 5:00 p.m. CT. Telephone inquiries will not be accepted. Questions may be submitted by email to the address above. Answers to questions will be provided in the form of an addendum posted after the question deadline on the CivicPlus, BidNet Direct, and ESBD websites for the benefit of all potential respondents. The County reserves the right to contact the person submitting a question to clarify the question received, if necessary. Each clarification, supplement, or addenda to this IFB, if any, will be posted on the CivicPlus, BidNet Direct and ESBD websites. All potential or actual respondents are responsible for monitoring the websites for such materials. Respondents are deemed to have notice of, and are required to comply with, any such material posted in accordance with this paragraph. Respondents should not rely upon any other sources of written or oral responses to inquiries.
10.	**Addenda**	Any interpretations, corrections or changes to this RFP and

specifications will be made by addenda. Sole issuing authority of addenda shall be vested in the Hays County Purchasing Office. It is the Vendor's responsibility to acknowledge receipt of all addenda with proposal submission.

11. Contact with County Staff: Upon issuance of this solicitation, employees and representatives of Hays County, other than the Purchasing Office staff identified as the Designated Contact above, will not discuss the contents of this solicitation with any Vendor or its representatives. Failure of a Vendor or any of its representatives to observe this restriction may result in disqualification of any related offer. This restriction does not preclude discussions between affected parties for the purpose of conducting business unrelated to this procurement.

Anticipated Schedule of Events

January 20, 2022	Issuance of RFP
February 2, 2022	Deadline for Submission of Questions (5:00 PM CT)
February 10, 2022	Deadline for Submission of Proposals (1:00 PM CT) **Late proposals will not be accepted.**
March 2022	Anticipated contract award date

III. Specifications

A. Introduction

Hays County (County) is soliciting for a qualified firm for Program Management Services for the Emergency Rental Assistance Program for Hays County citizens. The COVID-19 pandemic has created an unprecedented situation in the County which has negatively impacted many of its residents through the permanent or temporary loss of employment. The County has received funding from the U.S. Department of the Treasury to provide financial assistance in the form of rent & utility assistance to income eligible households that have been negatively impacted by the COVID-19 pandemic.

B. Background

Hays County has developed an online application for Hays County tenants, authorized tenant representatives and landlords to complete, as well as developed an electronic platform to manage the program.

Case Workers

Hays County currently employs two (2) full time case workers and two (2) part time case workers. The case workers verify that each application submitted by tenants, authorized tenant representatives, or landlords is complete and accurate. Case worker review includes:

- Review each ticket and compare the data provided by the tenant and landlord.
- Review the documentation uploaded under each ticket to ensure it is complete and all required documents have been received.
- Communicate in the system and by email or phone with applicants and landlords to request supplemental information or replacement documents.
- Once all required documents have been uploaded, the case workers promote the ticket to the Auditor for review.

Emergency Rental Assistance Electronic Platform

The Emergency Rental Assistance Electronic Platform utilizes an "open-source software". (The software is free and is maintained and updated by individuals utilizing the software.) The software is a "Helpdesk – Ticket software" and is called osTicket. Documentation for the software and more information can be found at http://osticket.com.

Current Procedure

- Client creates an account at era.co.hays.tx.us
- Client submits a ticket
  - The initial ticket for support is the Hays County Emergency Rental Assistance application
  - Any additional tickets are submitted under Additional Assistance Request
- The case workers review the tickets according to the checklist approved by the Hays County Commissioners Court, which follows U.S. Treasury Guidelines
- After all required documents are uploaded to the ticket, the case workers complete their report and submit the ticket to the Auditor's Office for review and payment.
- The Auditor's Office performs final review to ensure they have required documents to issue payment. If the ERA packet has all the documents a check will be issued. If documents are missing or incomplete, the tickets are returned to the case workers for corrections.

C. Scope of Work

The awarded firm will act as the Program Manager, who will be responsible for providing the following services:

- Follow guidelines established by the Hays County Commissioners Court, further governed by the U.S. Department of the Treasury federal guidelines and State and Local Statutes.
- Ensure Hays County renters, and landlords are educated about the program, understand the assistance available and how to access funding.
- Accept applications on a confidential basis, through the Hays County established program.
- Oversee case workers and ensure they are performing within program guidelines.
- Provide assistance in completing applications by phone, online, and potentially at a drive-up event.
- Provide translation services to applicants as necessary.
- Fully accommodate those with a disability or in need of some reasonable accommodations.
- Determine household eligibility and verification of landlord ownership.
- Obtain all required documents from applicants prior to sending to Auditor's office for processing.
- Obtain W-9 forms for the landlords & utility providers.
- Promote completed tickets/applications & required documentation to the Auditor's office for review and check processing.

D. Qualifications

Hays County is seeking to contract with a competent firm with prior experience in administering rental assistance programs or any other relevant successful administration of similar programs.

- The firm demonstrates the ability to commence and perform required work promptly upon award of contract.
- The Program Manager assigned shall have had recent prior experience (within the last 5 years) with work of a similar scope of services and shall list all current and past projects of a similar nature.
- The certification/license status of each person connected with the project shall be listed for each jurisdiction and each discipline (if applicable).

REFERENCES: Hays County requires respondent to supply with the statement of qualifications, a list of at least three (3) references where like services have been supplied by their company. Include name of company, address, telephone number and name of representative.

RESPONSIBILTY: A prospective respondent must affirmatively demonstrate respondent's responsibility. A prospective respondent must meet the following requirements:

- Have adequate financial resources, or the above ability to obtain such resources as required
- Be able to comply with required or proposed delivery schedule
- Have a satisfactory record of performance
- Be otherwise qualified and eligible to receive an award

TIME OF PERFORMANCE: It is imperative that the prospective respondent respond to County requests in a timely manner and comply with required or proposed delivery schedules. Please describe how you intend to respond to and track County requests.

SYSTEM FOR AWARD MANAGEMENT: Respondent and its Principals may not be debarred or suspended nor otherwise on the Excluded Parties List System (EPLS) in the System for Award Management (SAM). Include verification that the company as well as the company's principals are not listed (are not debarred) through the System for Award Management (www.SAM.gov). Enclose a printout of the Entity Registration page that shows your firm is in active status and is not expired.

E. Proposal Requirements

Proposals shall not exceed twenty (20) pages (10 sheets front and back) in length, but not including:

- **Letter of Transmittal** signed by the individual authorized to negotiate for and contractually bind the company.
- **Table of Contents**
- **Appendix materials (any required forms, see RFP Submittal Checklist, and addenda from Hays County)**
- **Front and rear covers**

Items that count towards the 20-page limit

- **Profile/Experience of the Company**
  - Company information shall include: Company legal name of the Bidder, principal place of business, number of years in business, and description of company organization including identification of number of staff dedicated to the project.
  - Experience of the Company and prior work performance.
  - List of any criminal charges, civil lawsuits, or dispute resolutions to which the Company is a part in the past five (5) years and the nature of the issue. Indicating if and how it was resolved.
  - Related recent experience in managing federally funded local projects.
- **Key Personnel**
  - Provide resumes of all employees who may be assigned to provide services if your company is selected.
  - Provide an organizational chart containing the names, telephone numbers and email address of the prime providers and any sub-providers that would be proposed for the team and their contract responsibilities by work category.
- **Capacity to Perform**
  - Describe the capacity to perform the Scope of Work activities.
  - Provide a description of your proposed approach/strategy to provide and perform the objectives, specific elements, and tasks associated with services, delineating how the Company will be operational to provide Program Management Services for the Emergency Rental Assistance Program.
- **Cost Proposal (Attachment A)**
  - Fill out Attachment A and return as your Cost Proposal. The cost proposal – Attachment A should be included in your proposal and not as a separate document. Any proposal that does not include Attachment A will be deemed non-responsive.
  - **The cost proposal shall be all-inclusive price per approved and paid ticket/application.**
  - The proposal must include all costs that are necessary to successful completion of the project.
  - The lowest/best price will not be used as the sole basis for entering into this contract; rather, an award will be made to the company providing the best value, cost and other factors considered.

Sheet size is limited to 8½" x 11" sheets only, using 12-point font. Appendix materials (related project graphics, resumes, etc.) are not included in the 20-page limit but should be conservative in their inclusion. The organizational chart is included in the 20-page limit and it is permissible to use an 11" x "17" sheet (one-sided) and a font smaller than 12-point for the organizational chart, provided text is clearly legible. It is permissible to use a font smaller than 12-point for graphics, provided text is clearly legible.

The proposal must be submitted with a continuous binding (e.g. – spiral, GBC, etc.) along the left edge; no other binding will be accepted. While the County does not desire tab dividers in the proposals, if included they would not count towards the 20-page limit. Required forms (see Section I. RFP Submittal Checklist) do not count towards the 20-page limit.

F. Evaluation Criteria

The Evaluating Committee will evaluate each respondent's proposal based on a comprehensive set of criteria. Proposals received shall be evaluated and ranked by the County according to the following criteria: **(Maximum Point Total 100)**

1. **Experience of the Company** **30 points**
   The firm's proposal adequately demonstrates an understanding and experience in emergency rental assistance programs or similar services, which is documented in its proposal.
2. **Program cost proposal** **30 points**
   The proposal must include all costs that are necessary to successful completion of the project. The lowest/best price will not be used as the sole basis for entering into this contract; rather, an award will be made to the company providing the best value, cost and other factors considered.
3. **Prior Work Performance** **20 points**
   The firm's proposal adequately demonstrates an understanding and experience in emergency rental assistance programs or similar services, which is documented in its proposal.
4. **Capacity to Perform** **20 points**
   Describe the capacity to perform the scope of work activities, by providing your approach/strategy.

Interview (optional) **20 points Max.**

At the County's discretion, submitting entities may be requested by the Evaluating Committee to conduct interviews as part of the evaluation process, prior to making recommendations to Commissioners Court regarding award.

It is the practice of Hays County to encourage local participation and to promote and encourage contracting and subcontracting opportunities for locally owned businesses and labor in all contracts.

The County of Hays does not discriminate on the basis of race, color, national origin, sex, religion, age and disability in employment or the provision of services. Hays County is an Affirmative Action/Equal Opportunity Employer and strives to attain goals for Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u), as amended. Section 3 Residents and Business Concerns, Minority Business Enterprises, Small Business Enterprises and Women Business Enterprises are encouraged to submit proposals.

G. Submittal Requirements

The Company must deliver their proposal to the Hays County Purchasing Department by one of the following methods by the specified deadline:

Mailed or Dropped off Proposals:

- One (1) original proposal with required forms manually signed by the respondent with original signatures
- One (1) digital copy of the full proposal with all required forms on a thumb drive

Electronic Proposals:

- Upload proposal with required forms manually signed by the respondent. (through BidNet Direct)
- One (1) original proposal with required forms manually signed by the respondent, delivered to the Hays County Purchasing Office. Either the original or Electronic Proposal (through BidNet Direct) MUST be received by the due date and time to be considered responsive

LATE SUBMITTALS WILL NOT BE ACCEPTED.

ALTERING PROPOSALS: Any interlineations, alteration, or erasure made before receiving time must be initialed by the signer of the proposal, guaranteeing authenticity.

WITHDRAWING OF PROPOSAL: A proposal may be withdrawn at any time prior to the official opening. After the official opening, proposals may not be amended, altered or withdrawn without the recommendation of the County Purchasing Manager and the approval of Commissioners Court.

FORMS: All proposals must be submitted on the forms provided in this solicitation document. Changes to solicitation forms made by bidders shall disqualify the proposal.

REFERENCES: Hays County requires respondent to supply a list of at least three (3) references (See Section IV for Vendor Reference Form) where like services have been supplied by their company. Include name of company, address, telephone number and name of representative.

H. Award of Contract

BASIS OF AWARD: The County reserves the right to award a contract for named project to a company on the basis of "best value". Best value will be determined based on cost, experience, qualifications, references, proposed methodology/technical proposal, and overall responsiveness, clarity, and organization of the solicitation response.

THE CONTRACTS AWARDED shall be based on but not necessarily limited to, the following factors:

- Cost Proposal
- Vendor's qualifications & competency
- Special needs and requirements of Hays County
- Vendors past performance record
- Hays County's evaluation of vendor's capability to perform
- Vendor's references

COMPANY AGREES, if this proposal is accepted, to furnish any and all services upon which prices are offered, at the price(s) and upon the terms and conditions contained in the specifications. The period for acceptance of the proposal will be one hundred twenty (120) calendar days.

The awarded company expressly warrants that all services specified in the RFP will be performed with care and diligence and in accordance with all specifications of the RFP. The awarded company agrees to correct any deficiencies in its performance of services upon notification by the County and without additional expense to the County.

I. Limitations

RIGHT TO ACCEPT OR REJECT: The County reserves the right to accept or reject any or all submissions as a result of this RFP, to negotiate with all qualified sources, or to cancel in part or its entirety if found to be in the best interest of the County. The RFP does not commit the County to award a contract, issue a purchase order, or pay any costs incurred in the preparation of a submission in response to this RFP. Proposals may be held for one hundred twenty (120) calendar days after opening without taking action.

COMMISSIONERS COURT APPROVAL REQUIRED: The Hays County Commissioners Court must approve the contractors selected to provide the services requested in this RFP. The County reserves the right to authorize contract negotiations to begin without further discussion with contractors submitting a

response. Therefore, each proposal should be submitted as completely and accurately as possible. The County reserves the right to request additional data, oral discussions, or presentations in support of the written proposal. If the proposal is accepted and approved by Commissioners Court, this document shall be made part of the contract.

Contractor or Individual's Obligation Regarding Evaluation

a. SUBMISSION OF INFORMATION. Submitters are cautioned that it is each contractor and or individual's sole responsibility to submit information related to the evaluation categories, and the County is under no obligation to solicit such information if it is not included with the proposal. Failure of a contractor or individual to submit such information may cause an adverse impact on the evaluation of the specific proposal.
b. SUBMITTER REVIEW OF RFP. Submitters are responsible for examining and being familiar with all specifications, terms, conditions, provisions, and instructions of the RFP and their responses. Failure to do so will be at the contractor and/or individual's risk and will not be a determinative factor when awarding the contract for services.

ORAL NON-BINDING: Any non-written representations, explanations, or instructions given by County staff or County agents are not binding and do not form a part of, or alter in any way, the RFP, a written agreement pertinent to the RFP, or the awarding of the contract.

RESERVATIONS BY COUNTY: The Commissioners Court has the right to accept, reject, or cancel any and all submissions. In addition, the County expressly reserves the following:

1. waive any defect, irregularity, or informality in any submission or RFP procedure;
2. extend the RFP closing time and date;
3. reissue this RFP in a different form or context;
4. procure any item by other allowable means;
5. revise and modify, at any time before the RFP submittal due date, the factors and/or weights of factors the County will consider in evaluating RFP submittals and to otherwise revise or expand its evaluation methodology as set forth herein;
6. investigate the qualifications of any contractor under consideration and require confirmation of information furnished by a contractor;
7. require additional information from a contractor concerning contents of its RFP submittal and/or require additional evidence of qualifications;
8. waive minor deviations from specifications, conditions, terms, or provisions of the RFP, if it is determined that waiver of the minor deviations improves or enhances the County's business interests under the RFP;
9. extend any contract when most advantageous to the County, as set forth in this RFP.
10. appoint an evaluation committee to review RFP submittals or responses, make recommendations and seek the assistance of outside technical experts in RFP submittal evaluation;
11. hold interviews and conduct discussions and correspondence with one or more of the contractors responding to this RFP to seek an improved understanding and evaluation of the responses to this RFP.
12. disclose information contained in an RFP submittal to the public as required under the Texas Public Information Act; AND/OR
13. exercise any other right reserved or afforded to Hays County under this RFP. The County reserves the right to modify the process, in its sole discretion, to address applicable law and/or the best interest of the County.

The County shall not, under any circumstances, be bound by or be liable for any obligations with respect to any construction project until such time (if at all) a contract has been awarded and all approvals

obtained in form and substance satisfactory to the County have been executed and authorized by the County, and then only to the extent of such agreements.

J. Warranty of Performance

The successful respondent expressly warrants that all services specified in the RFP will be performed with care and diligence and in accordance with all specifications of the RFP. The successful bidder agrees to correct any deficiencies in performance of services upon notification by the County and without additional expense to the County.

CONTINUING NON-PERFORMANCE of the bidder, in terms of specifications, shall be basis for the termination of the contract by the County. The County shall not pay for merchandise/services that are unsatisfactory. Failure to perform any provision will constitute a default of contract, in which case, corrective action shall take place within ten (10) days from the date of written notice citing the nature of breach. Failure to take corrective action or to provide a satisfactory written reply excusing such failure within the prescribed ten (10) days will authorize the County to terminate this agreement by written notice.

COMPLIANCE WITH LAWS: The successful Respondents shall comply with all applicable federal, state and local laws and regulations pertaining to the practice of the profession and the execution of the duties under the solicitation. Any contract executed as a result of this RFP shall be governed by the laws of the State of Texas.

IV. General Terms and Conditions for Solicitations Applicable To: Request for Proposals (RFP)

1. GENERAL DEFINITIONS:
    a. "Auditor" means the Hays County Auditor or his/her designee.
    b. "Commissioners Court" means Hays County Commissioners Court.
    c. “Contract” means the contract awarded pursuant to the RFP.
    d. “Contractor” means a person or firm receiving an award of contract from Commissioners Court.
    e. "County" means Hays County, Texas, a political subdivision of the State of Texas.
    f. "County Building" means any County owned buildings and does not include buildings leased by County.
    g. "Is doing business" and "has done business" mean:
        i. Paying or receiving in any calendar year any money or other valuable thing which is worth more than $250 in the aggregate in exchange for personal services or for purchase of any property or property interest, either real or personal, either legal or equitable; or
        ii. Loaning or receiving a loan of money; or goods or otherwise creating or having in existence any legal obligation or debt with a value of more than $250 in the aggregate in a calendar year;
        iii. But does not include any retail transaction for goods or services sold to a Key Contracting Person at a posted, published, or marked price available to the general public.
    h. "Key Contracting Person" means any person or business listed in Exhibit A to Affidavit.
    i. "Purchasing Manager" means the Hays County Purchasing Manager.
    j. “Sub-contractor” means a person or firm doing business with a Contractor.

2. FUNDING: Funds for payment on this Contract have been provided through the U.S. Department of the Treasury and budgeted by the Commissioners Court for this grant award period only. State of Texas statutes prohibit the obligations and expenditure of public funds beyond the fiscal year for which a budget has been approved. However, the cost of items or services covered by this Contract is considered a recurring requirement and is included as a standard and routine expense of Hays County to be included in each proposed budget within the foreseeable future. County Commissioners expect this to be an integral part of future budgets to be approved during the period of this Contract except for unanticipated needs or events which may prevent such payments against this Contract. However, County cannot guarantee the availability of funds, and enters into this Contract only to the extent such funds are made available. The Fiscal Year for County extends from October 1st of each calendar year to September 30th of the next calendar year.

3. FUNDING OUT: Despite anything to the contrary in this Contract, if, during budget planning and adoption, Commissioners Court fails to provide funding for this Contract for the following fiscal year of County, County may terminate this Contract after giving Contractor thirty (30) calendar days written notice that this Contract is terminated due to the failure to fund it.

4. INVOICING/PAYMENTS:
    a. Contractor shall provide County with an Internal Revenue Form W-9, Request for Taxpayer Identification Number and Certification, that is completed in compliance with the Internal Revenue Code and its rules and regulations before any Contract funds are payable.
    b. As a minimum, invoices shall include: (i) name, address, and telephone number of Contractor and similar information in the event payment is to be made to a different address; (ii) County Contract or Purchase Order number; (iii) identification of products or services as outlined in this Contract; (iv) quantity or quantities, applicable unit prices, total prices, and total amount; and (v) any additional payment information called for by this Contract. County will not pay invoices that are in excess of the amount authorized by the purchase order.
    c. Payment shall be made by check or warrant by County upon satisfactory delivery and acceptance of products and services and submission of an invoice to the address below:
    County Auditor
    712 S Stagecoach Trail, Suite 1071

San Marcos, Texas 78666

d. Payment shall be deemed to have been made on the date of mailing of the check or warrant. For purposes of payment discounts, time will begin upon satisfactory delivery of products and services and/or submission of acceptable invoice, whichever is last. Partial payments will not be made unless specifically requested and approved by County prior to Contract award.
e. Accrual and payment of interest on overdue payments shall be governed by Tex. Gov't Code Ann., ch. 2251.

5. COUNTY TAXES: If the Contractor subsequently becomes delinquent in the payment of County taxes, it will be grounds for cancellation of the contract. Despite anything to the contrary, if the contractor is delinquent in payment of County property taxes at the time of invoicing, Contractor assigns any payments to be made for performance under this contract to the County Tax Assessor-Collector for the payment of delinquent taxes.

6. PROMPT PAYMENT ACT: TEX. GOV'T CODE ANN., ch 2251 (Vernon Supp. 1995) requires that payments be made within 30 calendar days. If County fails to pay within 30 days, interest on overdue amounts is subject to Chapter 2251, Texas Government Code. The law does not apply if the terms of a federal grant, contract, regulation, or statute prevent local governments from making timely payments with federal funds. Contractors and subcontractors must pay their suppliers interest if the supplier is not paid within 10 calendar days after the contractor or subcontractor receives payment. Contractors must apply for interest payments within 6 months of submitting a proper invoice if they believe such interest was due but not paid. Interest begins accruing 30 days after either of the following, whichever is later; (i) satisfactory delivery or performance has been completed, or, (ii) a correct invoice is received at the designated place.

7. FOB POINT: Delivery of all products under this contract, if any, shall be made Free on Board to final destination, at the address shown in this contract or as indicated on each Purchase Order placed against this contract. The title and risk of loss of the goods shall not pass to County until acceptance takes place at the F.O.B. point.

8. INSPECTION AND ACCEPTANCE: The County office or department receiving items pursuant to this contract shall inspect and accept only those items that are satisfactory to them, and reject those items which are damaged or which do not conform to specifications. Contractor shall be responsible for the proper labeling, packing, and delivery to final destination, including replacement of rejected deliveries.

9. VARIATION IN QUANTITY: No variation in the quantity of any item called for by this contract will be accepted unless such variation has been caused by conditions of loading, shipping, or packing, or allowances in manufacturing processes, and then only to the extent, if any, specified elsewhere in this contract.

10. OFFICIALS NOT TO BENEFIT: If a member of Commissioners Court belongs to a cooperative association, the County may purchase equipment or supplies from the association only if no member of the Commissioners Court will receive a pecuniary benefit from the purchase, other than as reflected in an increase in dividends distributed generally to members of the association.

11. NONDISCRIMINATION; CIVIL RIGHTS/ADA COMPLIANCE:
    a. Contractor shall not engage in employment practices that have the effect of discriminating against employees or prospective employees because of age, race, color, sex, creed, national origin or handicapped condition.
    b. Contractor shall provide all services and activities required in a manner that would comply with the Civil Rights Act of 1964, as amended, the Rehabilitation Act of 1973, Public Law 93-1122, Section 504, and with the provisions of the Americans with Disabilities Act of 1990, Public Law 101-336 [S.933] if Contractor were an entity bound to comply with these laws.

12. CHANGES:
    a. This Contract may be amended only by written instrument signed by both County and Contractor. It is acknowledged by Contractor that NO OFFICIAL, EMPLOYEE, AGENT OR REPRESENTATIVE OF COUNTY HAS ANY AUTHORITY, EITHER EXPRESS OR IMPLIED, TO CHANGE THE SCOPE OF THIS CONTRACT OR OTHERWISE AMEND THIS CONTRACT, OR ANY ATTACHMENTS HERETO, UNLESS EXPRESSLY GRANTED THAT AUTHORITY BY THE COMMISSIONERS COURT.
    b. Contractor shall submit all requests for changes to this Contract or any attachment(s) to it to the Purchasing Manager. The Purchasing Manager shall present Contractor's requests to Commissioners Court for consideration.

13. REPRESENTATIONS:
    a. Contractor represents that he has thoroughly examined the drawings, specifications, schedule, instructions and all other contract documents. Contractor has made all investigations necessary to be thoroughly informed regarding plant and facilities for delivery of material, equipment and/or services as required by the proposal conditions.
    b. The Contractor's delivery time includes weekends and holidays.
    c. Contractor certifies that he is a qualified, bondable business entity that he is not in receivership or contemplates it, and has not filed for bankruptcy. He further certifies that the Company, Corporation, Partnership, or Sole Proprietorship is not delinquent with respect to payment of County property taxes.
    d. Contractor warrants that all applicable patents and copyrights which may exist on items that will be supplied under the contract have been adhered to and further warrants that County shall not be liable for any infringement of those rights. Warranties granted County shall apply for the duration of this contract or for the life of equipment or supplies purchased, whichever is longer. County must not extend use of the granted exclusive rights to any other than County employees or those with whom County has established a relationship aimed at furthering the public interest, and then only for official public uses. County will not knowingly or intentionally violate any applicable patent, license, or copyright. Contractor must indemnify County, its officers, agents, and employees against all claims, suits, and liability of every kind, including all expenses of litigation, court costs, and attorney's fees arising in connection with any alleged or actual infringement of existing patents, licenses or copyrights applicable to items sold.
    e. The Contractor warrants that upon execution of a contract with the County, he will not engage in employment practices which have the effect of discriminating against employees or prospective employees because of age, religion, race, color, sex, creed, handicap, or national origin and will submit reports as the County may require to assure compliance.
    f. Contractor warrants to County that all items delivered and all services rendered will conform to the specifications, drawings, or other descriptions furnished or incorporated by reference, and will be of merchantable quality, good workmanship, and free from defects. Contractor further agrees to provide copies of applicable warranties or guarantees to the Purchasing Manager. Copies will be provided within 10 days after the Notice of Award is issued. Return of merchandise under warranty shall be at Contractor's expense.

14. SUBCONTRACTS:
    a. Contractor shall not enter into any subcontracts for any service or activity relating to the performance of this Contract without the prior written approval or the prior written waiver of this right of approval from County. IT IS ACKNOWLEDGED BY CONTRACTOR THAT NO OFFICER, AGENT, EMPLOYEE OR REPRESENTATIVE OF COUNTY HAS THE AUTHORITY TO GRANT SUCH APPROVAL OR WAIVER UNLESS EXPRESSLY GRANTED THAT SPECIFIC AUTHORITY BY THE COMMISSIONERS COURT.
    b. If a subcontract is approved, Contractor must make a "good faith" effort to take all necessary and reasonable steps to insure HUBs maximum opportunity to be subcontractors under this Contract. Contractor must obtain County approval of all proposed HUB subcontractors through the Purchasing Manager. Failure by Contractor to make a good faith effort to employ HUBs as subcontractors constitutes a breach of this Contract and may result in termination of this Contract.

15. ASSIGNMENT:
    a. The parties to this Contract shall not assign any of the rights or obligation hereunder without the prior written consent of the other party. No official, employee, representative or agent of County has the authority to approve any assignment under this Contract unless that specific authority is expressly granted by Commissioners Court.
    b. The terms, provisions, covenants, obligations and conditions of this Contract are binding upon and inure to the benefit of the successors in interest and the assigns of the parties to this Contract if the assignment or transfer is made in compliance with the provisions of this Contract.
    c. Contractor remains responsible for the performance of this Contract when there is a change of name or change of ownership. If a change of name is required, the Purchasing Manager shall be notified immediately. No change in the obligation of or to Contractor will be recognized until it is approved by Commissioners Court.

16. DISPUTES AND APPEALS: The Purchasing Manager acts as the County representative in the issuance and administration of this contract in relation to disputes. Any document, notice, or correspondence not issued by or to the Purchasing Manager or other authorized County person, in relation to disputes is void unless otherwise stated in this contract. If the Contractor does not agree with any document, notice, or correspondence issued by the Purchasing Manager, or other authorized County person, the Contractor must submit a written notice to the Purchasing Manager within ten (10) calendar days after receipt of the document, notice, or correspondence, outlining the exact point of disagreement in detail. If the matter is not resolved to the Contractor's satisfaction, Contractor may submit a written Notice of Appeal to the Commissioners Court, through the Purchasing Manager, if the Notice is submitted within ten (10) calendar days after receipt of the unsatisfactory reply. Contractor then has the right to be heard by Commissioners Court.

17. MEDIATION: When mediation is acceptable to both parties in resolving a dispute arising under this Agreement, the parties agree to use a mutually agreed upon mediator, or a person appointed by a court of competent jurisdiction, for mediation as described in Section 154.023 of the Texas Civil Practice and Remedies Code. Unless both parties are satisfied with the result of the mediation, the mediation will not constitute a final and binding resolution of the dispute. All communications within the scope of the mediation shall remain confidential as described in §154.073 of the Texas Civil Practice and Remedies Code, unless both parties agree, in writing, to waive the confidentiality.

18. FORCE MAJEURE: If the performance by either party of any of its obligations under this Contract is interrupted or delayed due to an act of God or the common enemy or as the result of war, riot, civil commotion, sovereign conduct, or the act or conduct of any person or persons not a party to this Contract, then it shall be excused from performance for such period of time as is reasonably necessary to remedy the effects thereof.

19. NON-WAIVER OF DEFAULT:
    a. No payment, act or omission by County may constitute or be construed as a waiver of any breach or default of Contractor which then exists or may subsequently exist. No official, agent, employee or representative of County may waive any breach of any term or condition of this Contract unless expressly granted that specific authority by the Commissioners Court.
    b. All rights of County under this Contract are specifically reserved and any payment, act or omission shall not impair or prejudice any remedy or fight to County under it. Any right or remedy in this Contract shall not preclude the exercise of any other right or remedy under this Contract or under any law, nor shall any action taken in the exercise of any right or remedy be deemed a waiver of any other rights or remedies.

20. TERMINATION FOR DEFAULT: Failure by either County or Contractor to perform any provisions of this Contract shall constitute a breach of contract. Either party may require corrective action within ten (10) calendar days after date of receipt of written notice citing the exact nature of the other's breach. Failure to take corrective

action or failure to provide a satisfactory written reply excusing such failure within the ten (10) calendar days shall constitute a default. The defaulting party shall be given a twenty (20) calendar day period within which to show cause why this Contract shall not be terminated for default. All notices for corrective action, breach, default or show cause on behalf of County shall be issued by the Purchasing Manager or County legal representative only, and all replies to the same shall be made in writing to the County Purchasing Manager or County legal representative at the address provided herein. Notices issued by or to anyone other than the Purchasing Manager or County legal representative shall be null and void, and shall be considered as not having been issued or received. County reserves the right to enforce the performance of this Contract in any manner prescribed by law in case of default and may contract with another party with or without competition or further notification to the contractor. At a minimum, Contractor shall be required to pay any difference in the cost of securing the services covered by this Contract, or compensate for any loss or damage to the County derived hereunder if it becomes necessary to contract with another source because of a default, plus reasonable administrative costs and attorney's fees. In the event of termination for default, County, its agents or representatives, shall not be liable for loss of any profits anticipated under this Contract.

21. TERMINATION FOR CONVENIENCE: County reserves the right to terminate this Contract upon thirty (30) days written notice for any reason deemed by the Commissioners Court to serve the public interest, or resulting from any governmental law, ordinance, regulation, or court order. Termination for convenience shall not be exercised with the sole intention of awarding the same or similar contract requirements to another source. In the event of such termination, County shall pay Contractor those costs directly attributable to work done in preparation for compliance with this Contract prior to termination; provided, however, that no costs shall be paid which are recoverable in the normal course of the business in which Contractor is engaged, nor shall County pay any costs which can be mitigated through the sale of supplies or inventories. If County pays for the cost of supplies or materials obtained for use under this Contract those supplies or materials shall become the property of County and shall be delivered to the FOB point shown in this Contract, or as designated by the Purchasing Manager. County shall not be liable for loss of any profits anticipated under this Contract.

22. GRATUITIES: Contractor shall not provide any gratuity in any form, including entertainment, gifts, or otherwise, to any employee, buyer, agent, or representative of County with a view to securing a contract, or securing favorable treatment with respect to the award or amendment, or the making of any determination with respect to the performance of this Contract. County may terminate this Contract if it is found that gratuities of any kind including entertainment, or gifts were offered or given by the Contractor or any agent or representative of the Contractor, to any County Official or employee with a view toward securing favorable treatment with respect of this contract. If this Contract is terminated by the County pursuant to this provision, County shall be entitled, in addition to any other rights and remedies, to recover from the Contractor at least three times the cost incurred by Contractor in providing the gratuities.

23. COVENANT AGAINST CONTINGENT FEES: Contractor represents and warrants that no persons or selling agency has been retained to solicit this Contract upon an understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial selling agencies maintained by the Contractor to secure business. For breach or violation of this warranty, County shall have the right to terminate this Contract without liability, or in its discretion to, as applicable, add to or deduct from the Contract price for consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

24. COUNTY ACCESS: Contractor shall maintain and make available for inspection, audit or reproduction by any authorized representative of County all books, documents, and other evidence pertinent to the costs and expenses of this Contract, including but not limited to both direct and indirect costs, cost of labor, material, equipment, supplies, and services, and all other costs and expenses of whatever nature for which reimbursement is claimed under this Contract. All required records shall be maintained until an audit is completed and all required questions arising therefrom are resolved, or three (3) years after completion of the

contract term, whichever occurs first; provided, however, the records will be retained beyond the third year if an audit is in progress or the finding of a completed audit have not been resolved satisfactorily.

25. FORFEITURE OF CONTRACT:
    a. The selected Offeror must forfeit all benefits of the contract and County must retain all performance by the selected Offeror Contractor and recover all consideration or the value of all consideration paid to the selected Offeror pursuant to the contract if:
    b. The selected Offeror was doing business at the time of submitting its proposal offer or had done business during the 365- day period immediately prior to the date on which its proposal offer was due with one or more Key Contracting Persons if the selected Offeror failed to disclose the name of any such Key Contracting Person in its offer; or
    c. The selected Offeror does business with a Key Contracting Person after the date on which the offer that resulted in the contract is submitted and prior to full performance of the contract.

26. CONTRACTOR CLAIMS NOTIFICATION:
    a. If any claim, or other action, that relates to Contractor's performance under this Contract, including proceedings before an administrative agency, is made or brought by any person, firm, corporation, or other entity against Contractor, Contractor shall give written notice to County of the following information within ten (10) working days after being notified of it:
        i. The existence of the claim, or other action;
        ii. The name and address of the person, firm, corporation or their entity that made a claim or that instituted any type of action or proceeding;
        iii. The alleged basis of the claim, action or proceeding;
        iv. The court or administrative tribunal, if any, where the claim, action or proceeding was instituted; and
        v. The name or names of any person against whom this claim is being made.
    b. Except as otherwise directed, Contractor shall furnish to County copies of all pertinent papers received by Contractor with respect to making these claims or actions and all court pleadings related to the defense of these claims or actions.

27. CERTIFICATION OF ELIGIBILITY: This provision applies if the anticipated Contract exceeds $100,000. By submitting a bid or proposal in response to this solicitation, the bidder/respondent certifies that at the time of submission, he/she is not on the Federal Government's Excluded Parties List System (www.epls.gov), which details a listing of suspended, ineligible, or debarred contractors. In the event of placement on the list between the time of bid/proposal submission and time of award, the bidder/respondent will notify the Hays County Purchasing Manager. Failure to do so may result in terminating this Contract for default.

28. CONTRACTOR LIABILITY, INDEMNIFICATION AND CLAIMS NOTIFICATION: Contractor shall indemnify County, its officers, agents, and employees, from and against any and all third party claims, losses, damages, causes of action, suits, and liability of every kind whether meritorious or not and, including all expenses of litigation, court costs, and reasonable attorney's fees, arising in connection with the services provided by Contractor under this Contract. It is the expressed intention of the Parties to this Contract, both Contractor and County, that the indemnity provided for in this paragraph is indemnity by Contractor to indemnify and protect County from the consequences of Contractor's actions.

29. CONSTRUCTION OF CONTRACT:
    a. This Contract is governed by the laws of the United States of America and the State of Texas and all obligations under this Contract are performable in Hays County, Texas. Venue for any dispute arising out of this Contract will lie in the appropriate court of Hays County, Texas.
    b. If any portion of this Contract is ruled invalid, illegal, or unenforceable in any respect by a court of competent jurisdiction, the remainder of it shall remain valid and binding.

c. Headings and titles at the beginning of the various provisions of this Contract have been included only to make it easier to locate the subject matter covered by that part, section or subsection and are not to be used in construing this Contract.
d. When any period of time is stated in this Contract, the time shall be computed to exclude the first day and include the last day of period. If the last day of any period falls on a Saturday, Sunday, or a day that Hays County has declared a holiday for its employees, these days shall be omitted from the computation. All hours in this Contract are stated in Central Standard Time from 2:00 o'clock a.m. on the first Sunday of November until 2:00 o'clock a.m. on the second Sunday of March and in Central Daylight Saving Time from 2:00 o' clock a.m. on the second Sunday of March until 2:00 o'clock a.m. on the first Sunday of November or such other dates as may be adopted for the activation of Daylight Savings Time in the United States in future years.
e. Words of any gender in this Contract shall be construed to include any other gender and words in either number shall be construed to include the other unless the context clearly requires otherwise.
f. Provisions, Words, Phrases, and Statutes, whether incorporated by actual use or by reference, shall be applied to this Contract in accordance with Texas Government Code, §§ 312.002 and 312.003.

30. ADDITIONAL GENERAL PROVISIONS:
    a. Contractor must comply with all Federal and State laws and regulations, City and County ordinances, orders, and regulations, relating in any way to this Contract.
    b. Contractor must secure all permits and licenses, pay all charges and fees, and give all notices necessary for lawful operations.
    c. Contractor must pay all taxes and license fees imposed by the Federal and the State Governments and their agencies and political subdivisions upon the property and business of Contractor.
    d. Despite anything to the contrary in this Contract, if the Contractor is delinquent in payment of property taxes at the time of providing services, Contractor assigns the amount of any payment to be made for services provided under this Contract equal to the amount Contractor is delinquent in property tax payments to the Hays County Tax Assessor-Collector for the payment of the delinquent taxes.
    e. In this subsection, "County Building" means any County-owned buildings and does not include buildings leased by County. Contractor must not execute any mortgage, or issue any bonds, shares of stock, or other evidence of interest in County Buildings.

31. INTERPRETATION OF CONTRACT:
    a. This document contains the entire agreement between the parties relating to the rights granted and the obligations assumed. Any prior agreements or representations not expressly set forth in this agreement are of no force. Any oral representations or modifications concerning this agreement shall be of no force except a subsequent modification in writing signed by the Purchasing Manager. No official, representative, employee, or agent of the County has any authority to modify or amend this contract except pursuant to specific authority to do so granted by the Commissioners Court.
    b. If inconsistency exists between provisions of this solicitation, the inconsistency shall be resolved by giving precedence in the following ascending order of precedence:
        i. The Schedule of Items/Services
        ii. Terms and Conditions of Request for Proposals;
        iii. General Provisions;
        iv. Other provisions, whether incorporated by reference or otherwise; and
        v. The specifications.
    c. If any contract provision shall for any reason be held invalid, illegal, or unenforceable in any respect, invalidity, illegality, or unenforceability shall not affect any other provision, and this contract shall be construed as if invalid, illegal or unenforceable provision had never been contained.
    d. This contract shall be governed by the laws of Texas and all obligations are performable in Hays County, Texas.
    e. If a word is used with reference to a particular trade or subject matter or is used as a word of art, the word shall have the meaning given by experts in that particular field.

f. Words in the present or past tense include the future tense. The singular includes the plural and the plural includes the singular. The masculine gender includes the feminine and neuter genders.
g. The headings in this contract have been included only to make it easier to locate the subject covered by each provision and are not to be used in construing this contract.
h. Provisions, words, phrases, and statutes, whether incorporated by actual use or by reference, shall be applied to this contract in accordance with TEX. GOV'T CODE ANN., SEC 312.002, 312.003 (Vernon 1991).

32. MODIFICATIONS:
    a. The County Purchasing Manager may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this contract in any one of the following:
        i. Drawings, designs or specifications when the supplies to be furnished are to be specifically manufactured for the County in accordance with the drawings, designs, or specifications.
        ii. Method of shipment or packing.
        iii. Place of deliveries.
        iv. Correction of errors of a general administrative nature or other mistakes, the correction of which does not affect the scope of the contract, or does not result in expense to the Contractor.
        v. Description of items to be provided.
        vi. Time of performance (i.e. hours of day, days of week, etc)
    b. If any such change causes an increase or decrease in the cost of, or time required for, performance of any part of the work under this contract whether, or not changed by the order, the Commissioners Court shall make an equitable adjustment in the contract price, the delivery schedule, or both, and shall modify the contract. The Contractor must submit any "proposal for adjustment" under this clause within thirty (30) calendar days from the date of receipt of the written order. However, if the County Purchasing Manager decides that the facts justify it, the County Purchasing Manager may receive and act upon a proposal submitted before final payment of the contract. If the Contractor's proposal includes the cost of property made obsolete or excess by the change, the County shall have the right to prescribe the manner of disposition of the property. Failure to agree to any adjustment shall be a dispute under the Disputes and Appeals clause. However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

33. PRICE CHANGES: The prices offered shall remain firm for the period of the contract. The prices offered shall also remain firm for the option years should the County choose to exercise the option to renew, except for changes that are industry wide and beyond the control of the contractor. If such changes do occur, it will be the responsibility of the contractor to provide documentation to Hays County substantiating the changes to the bid prices. Any price changes must be approved by Hays County.

34. INSURANCE AND LIABILITY: During the period of this contract, contractor shall maintain at his expense, insurance with limits not less than those prescribed below. With respect to required insurance, Contractor shall;
    a. Name County as additional insured as its interests may appear.
    b. Provide County a waiver of subrogation.
    c. Provide County with a thirty (30) calendar day advance written notice of cancellation or material change to said insurance.
    d. Provide the County Purchasing Manager at the address shown on Page 1 of this contract, a Certificate of Insurance evidencing required coverage within ten (10) calendar days after receipt of Notice of Award. Also, please assure your certificate contains the contract number as indicated on the Contract Award form when issued by Hays County.
    e. Submit an original certificate of insurance reflecting coverage as follows:

Automobile Liability:	
Bodily Injury (Each person)	$250,000.00
Bodily Injury (Each accident)	$500,000.00
Property Damage	$1,000,000.00

Commercial General Liability (Including Contractual Liability):	
Bodily Injury (Each accident)	$1,000,000.00
Property Damage	$100,000.00

Excess Liability:	
Umbrella Form	Not Required

Labor Liability:	
Worker's Compensation	Meeting Statutory Requirements

V. Vendor Reference Form

Please list three (3) references of current customers who can verify the quality of service your company provides. The County prefers customers of similar size and scope of work to this proposal/bid. **This form must be returned with your bid/proposal.**

REFERENCE ONE

Company Name: _____

Address: _____

Contact Person and Title: _____

Phone Number: _____

Scope & Duration of Contract: _____

REFERENCE TWO

Company Name: _____

Address: _____

Contact Person and Title: _____

Phone Number: _____

Scope & Duration of Contract: _____

REFERENCE THREE

Company Name: _____

Address: _____

Contact Person and Title: _____

Phone Number: _____

Scope & Duration of Contract: _____

VI. Certificate of Interested Parties

In 2015, the Texas Legislature adopted House Bill 1295, which added 2252.908 to the Texas Government Code and applies to all contracts entered into on or after January 1, 2016. Section 2252.908 (b)(1)(2) applies only to a contract of a governmental entity or state agency that requires an action or vote by the governing body of the entity or agency before the contract may be signed or that has a value of at least $1 million. In addition, pursuant to Section 2252.908 (d), a governmental entity or state agency may not enter into a contract described by Subsection (b) with a business entity unless the business entity, in accordance with this section and rules adopted under this section, submits a disclosure of interested parties to the governmental entity or state agency at the time the business entity submits the signed contract to the governmental entity or state agency.

With regard to Hays County purchases, a vendor or other person who is awarded a contract or purchase approved by Hays County Commissioners Court is required to electronically complete a Form 1295 through the Texas Ethics Commission website at https://ethics.state.tx.us/whatsnew/elf_info_form1295.htm and submit a signed copy of the form to the Hays County Purchasing office. A contract, including County issued purchase order (if applicable), will not be enforceable or legally binding until the County received and acknowledges receipt of the properly completed Form 1295 from the awarded vendor.

If you do not have access to the link provided above or have any questions, please contact Purchasing at 512-393-2283.

VII. Conflict of Interest Questionnaire

CONFLICT OF INTEREST QUESTIONNAIRE

FORM CIQ

For vendor doing business with local governmental entity

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

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

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

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

OFFICE USE ONLY

Date Received

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

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

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

_____
Name of Officer

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

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

☐ Yes ☐ No

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

☐ Yes ☐ No

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

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

7

_____ _____
Signature of vendor doing business with the governmental entity Date

Form provided by Texas Ethics Commission www.ethics.state.tx.us Revised 11/30/2015

CONFLICT OF INTEREST QUESTIONNAIRE
For vendor doing business with local governmental entity

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

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

(A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;

(B) a transaction conducted at a price and subject to terms available to the public; or

(C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

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

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

***

(2) the vendor:

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

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor;

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

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor.

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

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

(1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);

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

(3) has a family relationship with a local government officer of that local governmental entity.

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

(1) the date that the vendor:

(A) begins discussions or negotiations to enter into a contract with the local governmental entity; or

(B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or

(2) the date the vendor becomes aware:

(A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);

(B) that the vendor has given one or more gifts described by Subsection (a); or

(C) of a family relationship with a local government officer.

VIII. CODE OF ETHICS FOR HAYS COUNTY

Public employment is a public trust. It is the policy of Hays County to promote and balance the objective of protecting government integrity and the objective of facilitating the recruitment and retention of personnel needed by Hays County. Such a policy implemented by prescribing essential standards of ethical conduct without creating unnecessary obstacles to entering public services.

Public servants must discharge their duties impartially so as to assure fair competitive access to governmental procurement by responsible contractors. Moreover, they should conduct themselves in such a manner as to foster public confidence in the integrity of the Hays County procurement organization.

To achieve the purpose of this article, it is essential that those doing business with Hays County also observe the ethical standards prescribed here.

It shall be a breach of ethics to attempt to influence any public employee, elected official or department head to breach the standards of ethical conduct set forth in this code.

It shall be a breach of ethics for any employee of Hays County or a vendor doing business with the county to participate directly or indirectly in a procurement when the employee or vendor knows that:

The employee or any member of the employee's immediate family, or household has a substantial financial interest pertaining to the procurement. This means ownership of 10% or more of the company involved and/or ownership of stock or other interest or such valued at $2500.00 or more.

A business or organization in which the employee, or any member of the employee's immediate family, has a financial interest pertaining to the procurement.

Gratuities: It shall be a breach of ethics to offer, give or agree to give any employee of Hays County or for any employee to solicit, demand, accept or agree to accept from a vendor, a gratuity of consequence or any 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 controversy, any particular matter pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefore pending before this government.

Kickbacks: 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 Hays County as an inducement for the award of a contract or order.

Contract Clause: The prohibition against gratuities and kickbacks prescribed above shall be conspicuously set forth in every contract and solicitation, therefore.

Any effort to influence any employee, elected official, or department head to violate the standards of the code is grounds to void the contract. Please certify, by your signature below, that you understand the ethics policy of Hays County and in no way will attempt to violate the code.

SIGNATURE: _____

PRINT NAME & TITLE: _____

COMPANY NAME: _____

IX. Hays County Practices Related to Historically Underutilized Businesses

1. STATEMENT OF PRACTICES

Hays County will strive to ensure that all businesses, regardless of size, economic, social or ethnic status have an equal opportunity to participate in the County's procurement processes. The County is committed to promote full and equal business opportunity for all businesses to supply the goods and services needed to support the mission and operations of county government, and seeks to encourage the use of certified historically underutilized businesses (HUB's) through the use of race, ethnic and gender neutral means. It is the practice of Hays County to involve certified HUBs to the greatest extent feasible in the County's procurement of goods, equipment, services and construction projects while maintaining competition and quality of work standards. The County affirms the good faith efforts who recognize and practice similar business standards.

2. DEFINITIONS

Historically underutilized businesses (HUBs), also known as a disadvantaged business enterprise (DBE), are generally business enterprises at least 51% of which is owned and the management and daily business operations are controlled by one or more persons who is/are socially and economically disadvantaged because of his/her identification as a member of certain groups, including women, Black Americans, Mexican Americans, and other Americans if Hispanic origin, Asian Americans and American Indians.

Businesses include firms, corporations, sole proprietorships, vendors, suppliers, contractors, subcontractors, professionals and other similar references when referring to a business that provides goods and/or services regardless of the commodity category.

Certified HUB's include business enterprises that meet the definition of a HUB and who meet the certification requirements of certification agencies recognized by Hays County, as expressed below.

Statutory bid limit refers to the Texas Local Government Code provision that requires competitive bidding for many items valued at greater than $50,000.

3. GUIDELINES

a. Hays County, its contractors, their subcontractors and suppliers, as well as all vendors of goods, equipment and services, shall not discriminate on the basis of race, color, creed, gender, age, religion, national origin, citizenship, mental or physical disability, veteran's status or political affiliation in the award and/or performance of contracts. All entities doing business or anticipating doing business with the County shall support, encourage and implement affirmative steps toward a common goal of establishing equal opportunity for all citizens and businesses of the County.

b. Vendors and/or contractors desiring to participate in the HUB program must successfully complete the certification process with the State of Texas or Texas Unified Certification Program. The vendor or contractor is also required to hold a current valid certification (title) from either of these entities.

c. Vendors and/or contractors must be registered with the State Comptroller's web-based HUB directory and with the Comptroller's Centralized Master Bidder's List (CMBL). Hays County will solicit bids from certified HUB's for state purchasing and public works contracts.

4. Hays County will actively seek and encourage HUBs to participate in all facets of the procurement process by:

a. Continuing to increase and monitor a database of certified HUB vendors, professionals and contractors. The database will be expanded to include products, areas of expertise and capabilities of each HUB firm.

b. Continuing to seek new communication links with HUB vendors, professionals and contractors to involve them in the procurement process.

c. Continuing to advertise bids on the County's website and in the newspapers including newspapers that target socially and economically disadvantaged communities.

5. As prescribed by law, the purchase of one or more items costing in excess of the statutory bid limit must comply with the competitive bid process. Where possible, those bids will be structured to include and encourage the participation of HUB firms in the procurement process by:

    a. Division of proposed requisitions into reasonable lots in keeping with industry standards and competitive bid requirements.

    b. Where feasible, assessment of bond and insurance requirements and the designing of such requirements to reasonably permit more than one business to perform the work.

    c. Specifications of reasonable, realistic delivery schedules consistent with the County's actual requirements.

    d. Specifications, terms and conditions reflecting the County's actual requirements are clearly stated, and do not impose unreasonable or unnecessary contract requirements.

6. A HUB practice statement shall be included in all specifications. The County will consider the bidder's responsiveness to the HUB Practices in the evaluation of bids and proposals. Failure to demonstrate a good faith effort to comply with the County's HUB practices may result in a bid or proposal being considered non-responsive to specifications.

7. Nothing in this practice statement shall be construed to require the County to award a contract other than to the lowest responsive bidder as required by law. This practice is narrowly tailored in accordance with applicable law.

Please sign for acknowledgement of the Hays County HUB Practices:

_____ _____

Signature Date

X. Hays County House Bill 89 Verification

I, _____ (Person name), the undersigned representative of _____(Company or Business name, hereafter referred to as Company) being an adult over the age of eighteen (18) years of age, after being duly sworn by the undersigned notary, do hereby depose and verify under oath that the company named above, under the provisions of Subtitle F, Title 10, Government Code Chapter 2270:

1. Does not boycott Israel currently; and
2. Will not boycott Israel during the term of the contract.

Pursuant to Section 2270.001, Texas Government Code:

1. *"Boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes; and*

2. *"Company" means a for-profit sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or any limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of those entities or business associations that exist to make a profit.*

_____ _____
Signature of Company Representative Date

On this _____ day of _____, 20____, personally appeared _____, the above-named person, who after by me being duly sworn, did swear and confirm that the above is true and correct.

NOTARY SEAL

_____
Notary Public in and for the State of Texas

(if other than Texas, Write state in here _____)

_____
Date

XI. Hays County Purchasing Department Senate Bill 252 Certification

Pursuant to Texas Government Code, Chapter 2252, Section 2252.152 and Section 2252.153, certify that the company named below is not listed on the website of the Comptroller of the State of Texas concerning the listing of companies that are identified under Section 806.051, Section 807.051 or Section 2253.153. I further certify that should the above-named company enter into a contract that is on said listing of companies on the website of the Comptroller of the State of Texas which do business with Iran, Sudan or any Foreign Terrorist Organization, I will immediately notify the Hays County Purchasing Department.

_____

Company Name

_____

Print Name of Company Representative

_____

Signature of Company Representative

_____

Date

CERTIFICATION CHECK PERFORMED BY HAYS COUNTY PURCHASING:

On this day; the Purchasing Representative for Hays County in San Marcos, Texas, pursuant to Texas Government Code, Chapter 2252, Section 2252.152 and Section 2252.153, certify that I did review the website of the Comptroller of the State of Texas concerning the listing of companies that is identified under Section 806.051, Section 807.051 or Section 2253.253 and I have ascertained that the above-named company is not contained on said listing of companies which do business with Iran, Sudan or any Foreign Terrorist Organization.

_____

Print Name of Hays County Purchasing Representative

_____

Signature of Hays County Purchasing Representative

_____

Date

_____

IFB/RFP/RFQ Number

XII. Debarment and Licensing Certification

STATE OF TEXAS §
§
COUNTY OF HAYS §

I, the undersigned, being duly sworn or under penalty of perjury under the laws of the United States and the State of Texas, certifies that Firm named herein below and its principals:

a. Are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any federal department or agency;
b. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
c. Are not presently indicted for or otherwise criminally or civilly charged by a federal, state or local governmental entity with commission of any of the offenses enumerated in paragraph (1)(b) of this certification;
d. Have not within a three-year period preceding this application/proposal had one or more public (federal, state or local) transactions terminated for cause or default;
e. Are registered and licensed in the State of Texas to perform the professional services which are necessary for the project; and
f. Have not been disciplined or issued a formal reprimand by any State agency for professional accreditation within the past three years.

_____
Name of Firm

_____ _____
Signature of Certifying Official Title of Certifying Official

_____ _____
Printed Name of Certifying Official Date

Where the Firm is unable to certify to any of the statements in this certification, such Firm shall attach an explanation to this certification.

SUBSCRIBED and sworn to before me the undersigned authority by _____on this the day of _____, 20___, on behalf of said Firm.

_____
Notary Public in and for the State of Texas
(if other than Texas, Write state in here _____)

My commission expires: _____

XIII. Vendor/Bidder's Affirmation

- Vendor/Bidder affirms that they are duly authorized to execute this Contract, that this company, corporation, firm, partnership or individual has not prepared this bid in collusion with any other bidder, and that the contents of this bid as to price, terms or conditions of said bid have not been communicated by the undersigned nor by any employee or agent to any other person engages in this type of business prior to the official opening of this bid.

- Vendor/Bidder hereby assigns to Purchaser any and all claims for overcharges associated with this Contract which arise under the antitrust laws of the United States, 15 USCA Section 1 et seq., and which arise under the antitrust laws of the State of Texas, Tex. Bus. & Com. Code, Section 15.01, et seq.

- Pursuant to 262.0276 (a) of the Texas Local Government Code, Vendor/Bidder, hereby affirms that Vendor/Bidder:

  _____ Does not own taxable property in Hays County, or;

  _____ Does not owe any ad valorem taxes to Hays County or is not otherwise indebted to Hays County

_____
Name of Contracting Company

If taxable property is owned in Hays County, list property ID numbers:

_____

_____
Signature of Company Official Authorizing Bid/Offer

_____ _____
Printed Name Title

_____ _____
Email Address Phone

XIV. Appendix II – 2 CFR Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

(A) Contracts for more than the simplified acquisition threshold currently set at $150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(B) All contracts in excess of $10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be affected and the basis for settlement.

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of $2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of $100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of

experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of $150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201).

(I) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide Excluded Parties List System in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1986 Comp., p. 189) and 12689 (3 CFR Part 1989 Comp., p. 235), "Debarment and Suspension." The Excluded Parties List System in SAM contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

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

(K) § 200.322 Procurement of recovered materials—A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

I have read, understand, and agree to comply with the Federal Affirmations specified above. Checking "YES" indicates acceptance, while checking "NO" denotes non-acceptance.

YES_____ NO_____

Authorized Signature: _____

Printed Name and Title: _____

Respondent's Tax ID: _____ Telephone: _____

If Respondent is a Corporation or other legal entity, please attach a corporate resolution or other appropriate official documentation that states that the person signing this Solicitation Response is an authorized person to sign for and legally bind the corporation or entity.

XV. FHWA 1273 CERTIFICATION

I have read, understand, and agree to comply with the FHWA 1273 presented in Attachment B. Checking "YES" indicates acceptance, while checking "NO" denotes non-acceptance.

YES_____ NO_____

Authorized Signature: _____

Printed Name and Title: _____

Respondent's Tax ID: _____ Telephone: _____

If Respondent is a Corporation or other legal entity, please attach a corporate resolution or other appropriate official documentation that states that the person signing this Solicitation Response is an authorized person to sign for and legally bind the corporation or entity.

XVI. Related Party Disclosure Form

Hays County strives to provide financial transparency to its taxpayers. Completion of this form will allow for added transparency into the procurement process by disclosing Vendor relationships with current or former Hays County employees. The existence of a relationship may not present a legal or ethical conflict for a Vendor. However, disclosure will allow for consideration of potential conflicts and/or ways to eliminate conflicts.

A Vendor who Employs any of the following is required to disclose the relationship on this form:

- Current Hays County employee (including elected or appointed official) (Complete Section A)
- Former Hays County employee who has been separated from Hays County for no less than four (4) years (including elected or appointed official) (Complete Section B)
- Person related within the 2nd degree of consanguinity or affinity to either of the above(1) (Complete Section C)

If no known relationships exist, complete Section D.

This form is required to be completed in full and submitted with the proposal package. A submitted proposal package that does not include this completed form will be considered non-responsive and will not be eligible for an award.

Section A: Current Hays County Employee

_____

Employee Name Title

Section B: Former Hays County Employee

_____

Employee Name Title Date of Separation from County

Section C: Person Related to Current or Former Hays County Employee

_____

Hays Employee/Former Hays Employee Name Title

_____

Name of Person Related Title Relationship

Section D: No Known Relationships

If no relationships in accordance with the above exist or are known to exist, you may provide a written explanation below:

_____

_____

_____

Attach additional pages if necessary.

I, the undersigned, hereby certify that the information provided is true and complete to the best of my knowledge.

_____
Name of Vendor

_____ _____
Signature of Certifying Official Title of Certifying Official

_____ _____
Printed Name of Certifying Official Date

[(1)]A degree of relationship is determined under Texas Government Code Chapter 573. (as outlined below)

Relationship of Consanguinity				
	1st Degree	**2nd Degree**	**3rd Degree***	**4th Degree***
Person	child or parent	grandchild, sister, brother or grand-parent	great-grandchild, niece, nephew, aunt,* uncle* or great-grandparent	great-great-grandchild, grandniece, grandnephew, first cousin, great aunt,* great uncle* or great-great-grandparent
* An aunt, uncle, great aunt or great uncle is related to a person by consanguinity only if he or she is the sibling of the person's parent or grandparent.				

Relationship of Affinity		
	1st Degree	**2nd Degree**
Person	spouse, mother-in-law, father-in-law, son-in-law, daughter-in-law, stepson, stepdaughter, stepmother or stepfather	brother-in-law, sister-in-law, spouse's grandparent, spouse's grandchild, grandchild's spouse or spouse of grandparent

“Vendor” shall mean any individuals or entity that seeks to enter into a contract with Hays County.

“Employs” shall mean any relationship wherein Vendor has made arrangements to compensate an individual, directly or by way of a business organization in which the individual has a sharehold or ownership interest, even if that arrangement is contractual and/or on an hourly-charge basis.

RFP 2022-P06 Emergency Rental Assistance Program – Program Management
Attachment A: Cost Proposal Form

This form MUST be completed and submitted with your proposal to be considered responsive.

The Cost proposal form is to be signed by the individual authorized to negotiate for and contractually bind the bidder. Failure to fully complete the form, provide the requested information, or make alterations will be considered a conditional bid and the proposal will be rejected.

Price Proposal:

All-inclusive price per approved and paid ticket/application	**$**

Should the bidder require additional case workers due to an increase in work required and/or to meet the performance or quality requirements required under this RFP, the bidder shall work with the Hays County representative to hire additional case workers.

The undersigned agrees that, if selected as vendor, s/he will execute a contract in accordance with the terms of this bid. The undersigned herby certifies that s/he is able to furnish labor that can work in harmony with all other elements of labor employed or to be employed on the work and that s/he will comply fully with all laws and regulations applicable to award.

The undersigned further certifies under the penalties of perjury that this proposal is in all respects bona fide, fair, and made without collusion or fraud with any other person. As used in this subsection, the word "person" shall mean any natural person, business, partnership, corporation, union, committee, club, or other organization, group of individuals, or legal entity.

Name of Company

Signature **Date**

Printed Name and Title of Signatory

REQUIRED CONTRACT PROVISIONS
FEDERAL-AID CONSTRUCTION CONTRACTS

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

ATTACHMENTS

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

I. GENERAL

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

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

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

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

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

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

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

II. NONDISCRIMINATION

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6. Training and Promotion:

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

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

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

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

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

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

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

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

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

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

8. Reasonable Accommodation for Applicants / Employees with Disabilities: The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

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

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

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

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

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

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

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

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

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

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

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

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

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

III. NONSEGREGATED FACILITIES

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

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

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

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

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

1. Minimum wages

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

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH–1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

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

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

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

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

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

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

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

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

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

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

2. Withholding

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

3. Payrolls and basic records

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

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

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

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

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

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

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

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

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

4. Apprentices and trainees

a. Apprentices (programs of the USDOL).

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

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

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

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

b. Trainees (programs of the USDOL).

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

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

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

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

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

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

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

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

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

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

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

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

10. Certification of eligibility.

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

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

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

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

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

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

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

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

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

VI. SUBLETTING OR ASSIGNING THE CONTRACT

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

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

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

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

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

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

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

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

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

VII. SAFETY: ACCIDENT PREVENTION

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

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

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

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

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

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

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

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

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

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

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

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

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

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

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

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.
2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

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

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

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

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

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

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

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

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

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

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

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

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

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

* * * * *

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

* * * * *

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

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

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

* * * * *

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Approve renewal of IFB 2021-B04 Lawn & Landscape Services with Texan Landscape, LLC.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
CONSENT	January 18, 2022	

LINE ITEM NUMBER

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: YES **AUDITOR REVIEW:** MARISOL VILLARREAL-ALONZO

REQUESTED BY	SPONSOR	CO-SPONSOR
Tammy Crumley	BECERRA	N/A

SUMMARY

IFB 2021-B04 is scheduled to expire on January 25, 2022. Texan Landscape, LLC. would like to renew their contract for one additional year, with the attached proposed price changes. The proposed price changes are an increase of 25% of the original monthly contract amount.

Attached:
IFB 2021-B04 Texan Landscape, LLC Renewal
Renewal Bid Tab

OFFICE OF THE COUNTY AUDITOR

Hays County Purchasing
712 S. Stagecoach Trail, Ste. 1071
San Marcos, Texas 78666
512-393-2273

Marisol Villarreal-Alonzo, CPA
County Auditor
marisol.alonzo@co.hays.tx.us

Vickie G. Dorsett
Assistant County Auditor
vickie.dorsett@co.hays.tx.us

December 31, 2021

Texan Landscape, LLC.
415 Lets Roll Drive
Fischer, TX 78623

RE: Annual contract renewal

The annual contract for Lawn & Landscape Services, IFB 2021-B04 is scheduled to expire on January 25, 2022. This letter will serve as official notice that Hays County would like to exercise its first (1st) option to renew the existing contract for one (1) additional year effective January 26, 2022 – January 25, 2023, provided all other terms and conditions remain unchanged and in full force and effect as provided in the current contract with the attached proposed price changes. If you are in agreement with the renewal terms, please acknowledge below and return one original to the Hays County Purchasing Office at the address listed above. Upon approval by the Hays County Commissioners Court, a fully executed copy will be returned to you for your files.

Please email purchasing@co.hays.tx.us if you wish to make modifications to the contract or have any questions. Thank you.

Sincerely,

Marisol Villarreal-Alonzo, CPA
Hays County Auditor

Signature	Texan Landscape LLC Company
David Oldham Printed Name	1/4/2022 Date

Approved by the Hays County Commissioners Court on: _____

Ruben Becerra
Hays County Judge

IFB 2021-B04 Lawn & Landscape Services Texas Landscape, LLC	Current Pricing	New proposed Pricing
Regular Maintenance : Mowing, edging, trimming, shrub & ground cover trimming, weeds, and plat debris/litter control		
Hayc County Courthouse	$ 525.00	$ 656.25
Government Center	$ 1,400.00	$ 1,750.00
Jail	$ 1,350.00	$ 1,687.50
Juvenile Detention Center	$ 1,225.00	$ 1,531.25
Public Safety Building	$ 495.00	$ 618.75
Fertilization per location (hourly rate)		
Foreman/Crew Leader	$ 29.00	$ 29.00
Holiday & Weekends	$ 29.00	$ 29.00
Worker/Labor	$ 29.00	$ 29.00
Holiday & Weekends	$ 29.00	$ 29.00
Mulch per location (hourly rate)		
Foreman/Crew Leader	$ 31.00	$ 31.00
Holiday & Weekends	$ 31.00	$ 31.00
Worker/Labor	$ 31.00	$ 31.00
Holiday & Weekends	$ 31.00	$ 31.00
Fire Ant Control per location (hourly rate)		
Foreman/Crew Leader	$ 25.00	$ 25.00
Holiday & Weekends	$ 25.00	$ 25.00
Worker/Labor	$ 25.00	$ 25.00
Holiday & Weekends	$ 25.00	$ 25.00
Tree Service (hourly rate)		
Foreman/Crew Leader	$ 37.50	$ 37.50
Holiday & Weekends	$ 37.50	$ 37.50
Worker/Labor	$ 37.50	$ 37.50
Holiday & Weekends	$ 37.50	$ 37.50
PM Irrigation System (per Location, per Spring & Fall PM)		
Hays County Courthouse	$ 150.00	$ 150.00
Government Center	$ 400.00	$ 400.00
Public Safety Building	$ 150.00	$ 150.00
Service & Repirs Irrigation System (hourly rate)		
Foreman/Crew Leader	$ 45.00	$ 45.00
Holiday & Weekends	$ 45.00	$ 45.00
Worker/Labor	$ 45.00	$ 45.00
Holiday & Weekends	$ 45.00	$ 45.00

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Authorize the County Judge to execute Installation Proposals with the Lower Colorado River Authority (LCRA) for P25 site additions and re-programming existing infrastructure as well as P25 700 mhz radio migration and authorize a discretionary exemption pursuant to Texas Local Government Code, Ch. 262.024(a)(7)(D).

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
CONSENT	January 18, 2022	$5,598,300

LINE ITEM NUMBER

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR REVIEW:** N/A

REQUESTED BY	SPONSOR	CO-SPONSOR
Mike Jones	BECERRA	N/A

SUMMARY

On December 7, 2012 the Commissioners Court authorized the use of ARPA funding for infrastructure and radio replacement for interoperability and public safety purposes. The attached proposals outline the projects set forth to begin installation and roll out of the new systems.

Attachments: LCRA Tower Additions
LCRA Radio Replacements

Binding Construction / Installation Proposal

LCRA and Hays County

This Binding Construction / Installation Proposal (this "Proposal") is issued under and subject to that certain Interlocal Cooperation Act Agreement for Mobile Radio Services and Equipment between the Parties listed above (the "Interlocal Agreement"). This Proposal is further subject to the Terms and Conditions attached hereto.

In the event of any conflict or inconsistency between the terms and provisions of this Proposal and the terms and provisions of the Interlocal Agreement, with respect to the Project identified below only, the terms and provisions of this Proposal shall control.

CUSTOMER: Hays County

Office of Emergency Services
712 S. Stagecoach Tr., Ste. 1071
San Marcos, TX 78666
Attn: Mike Jones

PROJECT: Hays County 700 P25 Tower Additions
DATE SUBMITTED: December 28, 2021
PROPOSAL EXPIRATION DATE: January 31, 2022

SERVICES: LCRA will provide materials and labor necessary to complete the following scope:

- Install 700 MHz P25 Antennas and Related Equipment to expand radio coverage in the Dripping Springs and mid-Hays County areas.
    - Add two 2-site Simulcast clusters to improve predicted radio coverage in the region.
    - Utilize Phase II technology to increase voice capacity at each site.
    - Potential additional site locations include the existing Dripping Springs water tower and an existing American Tower site located near FM 150.
        - Site locations are dependent upon availability of space on the tower, remediation needed and coverage prediction.
    - Materials and labor, including:
        - P25 Site Channels
        - Hardware/Software FX
        - UPS with Bypass
        - Antenna System
        - Shelter
        - Microwave and Transport Electronics
        - Generator
        - Combiners
        - Tower Applications
        - Frequency Licensing (allocated by the regional frequency planning committee)
- The need for tower remediation is not apparent at this time, however any remediation costs are not currently included.

SCHEDULE:
Begins: The work can begin any time after this Proposal is signed by both parties.
Completion: This Project will be completed by 12/31/2022 [when all services contemplated hereunder have been successfully completed, or this Proposal has been terminated].

PRICE:	
Phase 1 – Engineering/Design:	$ 133,000
Phase 1 – Material Receipt by LCRA:	$2,240,000
Phase 2 – Construction/Installation:	$ 296,000
Total Cost:	**$2,669,000**

Billing Method: Notwithstanding anything to the contrary in the Interlocal Agreement or this Proposal, Hays County Office of Emergency Services (acting through Hays County) will be invoiced for the amounts above upon completion of each phase.

Customer and the Lower Colorado River Authority agree that the work described above shall be performed in accordance with the terms and conditions in this Proposal.

Hays County	**Lower Colorado River Authority**
By:	By:
Title:	Title:
Date:	Date:

BINDING CONSTRUCTION / INSTALLATION PROPOSAL
TERMS AND CONDITIONS

This Proposal is subject to the following terms and conditions:

1. LCRA shall perform construction, installation, and other services as described in the attached Proposal.

2. LCRA will perform the work for a firm, fixed fee amount. LCRA may invoice the Customer for the entire fixed fee amount during the first month of work or for portions of the fixed fee amount over several months, but in no case shall the aggregate invoicing be for more than the fixed fee amount. All monetary payments under this Proposal shall be due and payable within thirty (30) days after receipt of invoice. If payment is not timely made, interest shall accrue on the unpaid balance at the lesser of the maximum lawful rate, or one percent per month, from the due date until paid.

3. Changes in the Proposal may be made only by a written change order signed by representatives of Customer and LCRA. Verbal change orders shall not be given nor accepted, except in case of an emergency which endangers people or property, and such order shall be followed up with a written confirmation as soon as practicable.

4. The term of this Proposal shall be the duration of the work. The Proposal may be terminated at any time by either party upon written notice to the other party. When the Proposal is terminated by either party, the Customer shall pay for services rendered under this Proposal up to the date of termination.

5. There are no third-party beneficiaries to this Proposal and the provisions of this Proposal shall not create any legal or equitable right, remedy or claim enforceable by any person, firm, or organization other than the parties and their permitted successors and permitted assigns.

6. Limited Warranty.

(a) LCRA shall perform all services in accordance with acceptable industry practice, in a good and workmanlike manner, and in accordance with installation instructions and requirements of any applicable equipment manufacturer and supplier. During a period of thirty (30) days after acceptance of the work by Customer, LCRA shall correct any work not conforming to the foregoing warranties by reperforming the services.

(b) LCRA shall assign to Customer, as the end-user, any applicable equipment or supply warranties provided by LCRA's vendors. All warranty documentation shall be furnished to the Customer.

(c) THE WARRANTIES CONTAINED IN THIS SECTION 6 ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MECHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND CUSTOMER'S REMEDIES ARE LIMITED TO LCRA'S OBLIGATIONS AS EXPRESSLY STATED IN THIS SECTION 6.

7. **THE TOTAL LIABILITY OF LCRA ARISING OUT OF THIS PROPOSAL AND THE WORK PERFORMED HEREUNDER WILL NOT EXCEED AN AMOUNT EQUAL TO THE FEES PAID TO LCRA UNDER THIS PROPOSAL, AND LCRA WILL NOT BE LIABLE FOR INDIRECT, PUNITIVE, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES, INCLUDING LOST PROFITS. IN NO EVENT SHALL ANY OFFICER, DIRECTOR, EMPLOYEE OR AFFILIATE (OR AFFILIATE'S OFFICER, DIRECTOR OR EMPLOYEE) OF LCRA BE LIABLE TO CUSTOMER UNDER THIS PROPOSAL, AND CUSTOMER'S SOLE RECOURSE UNDER THIS PROPOSAL SHALL BE AGAINST LCRA AND NOT AGAINST SUCH OTHER PERSONS. THE LIMITATIONS ON LIABILITY AND REMEDIES IN THIS PARAGRAPH WILL APPLY REGARDLESS OF WHETHER THE LIABILITY OR CAUSE OF ACTION ARISES IN CONTRACT, WARRANTY, INDEMNITY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILTY OR OTHERWISE. NOTHING IN THIS PROPOSAL SHALL BE CONSTRUED TO WAIVE LCRA'S GOVERNMENTAL IMMUNITY**.

8. This Proposal and the Interlocal Agreement together represents and contains the entire agreement and understanding between the parties with respect to the subject matter of this Proposal and supersedes any and all prior or contemporaneous oral and/or written agreements and understandings. No representations, warranty, condition, understanding or agreement of any kind with respect to the subject matter of this Proposal shall be relied upon by the parties unless incorporated into this Proposal. This Proposal may not be amended or modified except by a writing executed both by an authorized representative of LCRA and by an authorized representative of the Customer.

Binding Construction / Installation Proposal

LCRA and Hays County

This Binding Construction / Installation Proposal (this "Proposal") is issued under and subject to that certain Interlocal Cooperation Act Agreement for Mobile Radio Services and Equipment between the Parties listed above (the "Interlocal Agreement"). This Proposal is further subject to the Terms and Conditions attached hereto.

In the event of any conflict or inconsistency between the terms and provisions of this Proposal and the terms and provisions of the Interlocal Agreement, with respect to the Project identified below only, the terms and provisions of this Proposal shall control.

CUSTOMER: Hays County

Office of Emergency Services
712 S. Stagecoach Tr., Ste. 1071
San Marcos, TX 78666
Attn: Mike Jones

PROJECT: Hays County 700 P25 Radio Migration
DATE SUBMITTED: January 12, 2022
PROPOSAL EXPIRATION DATE: January 31, 2022

SERVICES: LCRA will provide materials and labor necessary to complete the following scope:

Migrate existing radio equipment to 700 MHz P25. Includes labor and materials to remove existing mobile radios and install 700 MHz P25 radio equipment. Replace existing handheld equipment with 700 P25 handheld radios.

- Qty. 339 XL-200P Handheld Radios, 700/800 MHz P25
  - Antenna, Belt Clip, Desk Charger, Speaker Mic, Leather Holster, 2 Batteries
  - Can update to add VHF
  - 3-year manufacturer's warranty
    - Trade-in of current radio equipment included in pricing
- Qty. 3 XL-200P Handheld Radios, 700/800/VHF P25, C1D1
  - Antenna, Belt Clip, Desk Charger, Speaker Mic, Leather Holster, 2 C1D1 Batteries
  - 3-year manufacturer's warranty
    - Trade-in of current radio equipment included in pricing
- Qty. 271 XL-185M Mobile Radios, 700/800 MHz P25
  - Antenna, Coax, Connectors, Faceplates
  - Removal of current equipment
  - Installation of new equipment
  - 2-year manufacturer's warranty
    - Trade-in of current radio equipment included in pricing

SCHEDULE:

Begins: The work can begin any time after this Proposal is signed by both parties.

Completion: This Project will be completed by 9/30/2022 [when all services contemplated hereunder have been successfully completed, or this Proposal has been terminated].

PRICE:	
Phase 1 – Material Receipt by LCRA:	$2,726,900
Phase 2 – Programming, Installation, Removal:	$ 202,400
Total Cost:	**$2,929,300**

Billing Method: Notwithstanding anything to the contrary in the Interlocal Agreement or this Proposal, Hays County Office of Emergency Services (acting through Hays County) will be invoiced for the amounts above upon completion of each phase.

Customer and the Lower Colorado River Authority agree that the work described above shall be performed in accordance with the terms and conditions in this Proposal.

Hays County	**Lower Colorado River Authority**
By:	By:
Title:	Title:
Date:	Date:

BINDING CONSTRUCTION / INSTALLATION PROPOSAL
TERMS AND CONDITIONS

This Proposal is subject to the following terms and conditions:

1. LCRA shall perform construction, installation, and other services as described in the attached Proposal.

2. LCRA will perform the work for a firm, fixed fee amount. LCRA may invoice the Customer for the entire fixed fee amount during the first month of work or for portions of the fixed fee amount over several months, but in no case shall the aggregate invoicing be for more than the fixed fee amount. All monetary payments under this Proposal shall be due and payable within thirty (30) days after receipt of invoice. If payment is not timely made, interest shall accrue on the unpaid balance at the lesser of the maximum lawful rate, or one percent per month, from the due date until paid.

3. Changes in the Proposal may be made only by a written change order signed by representatives of Customer and LCRA. Verbal change orders shall not be given nor accepted, except in case of an emergency which endangers people or property, and such order shall be followed up with a written confirmation as soon as practicable.

4. The term of this Proposal shall be the duration of the work. The Proposal may be terminated at any time by either party upon written notice to the other party. When the Proposal is terminated by either party, the Customer shall pay for services rendered under this Proposal up to the date of termination.

5. There are no third-party beneficiaries to this Proposal and the provisions of this Proposal shall not create any legal or equitable right, remedy or claim enforceable by any person, firm, or organization other than the parties and their permitted successors and permitted assigns.

6. Limited Warranty.

(a) LCRA shall perform all services in accordance with acceptable industry practice, in a good and workmanlike manner, and in accordance with installation instructions and requirements of any applicable equipment manufacturer and supplier. During a period of thirty (30) days after acceptance of the work by Customer, LCRA shall correct any work not conforming to the foregoing warranties by reperforming the services.

(b) LCRA shall assign to Customer, as the end-user, any applicable equipment or supply warranties provided by LCRA's vendors. All warranty documentation shall be furnished to the Customer.

(c) THE WARRANTIES CONTAINED IN THIS SECTION 6 ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MECHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND CUSTOMER'S REMEDIES ARE LIMITED TO LCRA'S OBLIGATIONS AS EXPRESSLY STATED IN THIS SECTION 6.

7. **THE TOTAL LIABILITY OF LCRA ARISING OUT OF THIS PROPOSAL AND THE WORK PERFORMED HEREUNDER WILL NOT EXCEED AN AMOUNT EQUAL TO THE FEES PAID TO LCRA UNDER THIS PROPOSAL, AND LCRA WILL NOT BE LIABLE FOR INDIRECT, PUNITIVE, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES, INCLUDING LOST PROFITS. IN NO EVENT SHALL ANY OFFICER, DIRECTOR, EMPLOYEE OR AFFILIATE (OR AFFILIATE'S OFFICER, DIRECTOR OR EMPLOYEE) OF LCRA BE LIABLE TO CUSTOMER UNDER THIS PROPOSAL, AND CUSTOMER'S SOLE RECOURSE UNDER THIS PROPOSAL SHALL BE AGAINST LCRA AND NOT AGAINST SUCH OTHER PERSONS. THE LIMITATIONS ON LIABILITY AND REMEDIES IN THIS PARAGRAPH WILL APPLY REGARDLESS OF WHETHER THE LIABILITY OR CAUSE OF ACTION ARISES IN CONTRACT, WARRANTY, INDEMNITY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILTY OR OTHERWISE. NOTHING IN THIS PROPOSAL SHALL BE CONSTRUED TO WAIVE LCRA'S GOVERNMENTAL IMMUNITY**.

8. This Proposal and the Interlocal Agreement together represents and contains the entire agreement and understanding between the parties with respect to the subject matter of this Proposal and supersedes any and all prior or contemporaneous oral and/or written agreements and understandings. No representations, warranty, condition, understanding or agreement of any kind with respect to the subject matter of this Proposal shall be relied upon by the parties unless incorporated into this Proposal. This Proposal may not be amended or modified except by a writing executed both by an authorized representative of LCRA and by an authorized representative of the Customer.

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Discussion and possible action to award contract for IFB 2022-B06 Road Building Materials - Limestone Rock Asphalt, Cold Mix to Vulcan Construction Materials, LLC.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
ACTION-ROADS	January 18, 2022	

LINE ITEM NUMBER

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: YES **AUDITOR REVIEW:** MARISOL VILLARREAL-ALONZO

REQUESTED BY	SPONSOR	CO-SPONSOR
Jerry Borcherding	BECERRA	N/A

SUMMARY

Purchasing received one bid pursuant to IFB 2022-B06 Road Building Materials - Limestone Rock Asphalt, Cold Mix. It is the staff's recommendation to award the contract to Vulcan Construction Materials, LLC.

Attached:
IFB 2022-B06 Road Building Materials - Limestone Rock Asphalt, Cold Mix Contract

SOLICITATION, OFFER AND AWARD

Hays County Auditor
Purchasing Office
712 S. Stagecoach Trail, Suite 1071
San Marcos, Texas 78666

Solicitation No.: IFB 2022-B06 Road Building Materials – Limestone Rock Asphalt, Cold Mix	**Date Issued: November 30, 2021**

SOLICITATION

Respondents must submit proposals as listed: One (1) original and one (1) digital copy on a thumb drive at the Hays County Purchasing Office at the address shown above or Electronically through BidNet Direct and one (1) hard copy at the Hays County Purchasing Office at the address shown above until:

11:00 a.m. local time December 21, 2021.

Proposals received after the time and date set for submission will be returned unopened.

For information please email: purchasing@co.hays.tx.us	Questions concerning this RFP must be received in writing no later than 5:00 on December 8, 2021	Phone No.: (512) 393-2283

OFFER (Must be fully completed by Respondent)

In compliance with the above, the undersigned offers and agrees to furnish all items or services awarded at the prices stipulated for each item delivered at the designated point(s) and within the time specified herein. Award shall include all solicitation documents and attachments.

MANUALLY SIGN ALL COPIES SUBMITTED. SIGNATURE IS MANDATORY.

Respondent		Respondent's Authorized Representative	
Entity Name:	Vulcan Construction Materials, LLC	Name:	Julia Farrar
Mailing Address:	PO Box 791550 San Antonio, TX 78279	Title:	Analyst
		Email Address:	farrar@vmcmail.com
		Phone No.:	(210) 965-0419
Signature:		Date:	12/27/21
Name, Email Address and Phone No. of person authorized to conduct negotiations on behalf of Respondent:	Julia Farrar farrar@vmcmail.com (210) 965-0419		

NOTICE OF AWARD (To be completed by County)

Funding Source:	Awarded as to item(s):	Contract Amount:
Vendor:		Term of Contract:
This contract issued pursuant to award made by Commissioners Court on:	Date:	Agenda Item:

Important: Award notice may be made on this form or by other Authorized official written notice.

_____ Hays County Judge — Date _____

_____ Hays County Clerk — Date _____

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Attachment A: IFB 2022-B06 Bid Form

Attachment B: FHWA 1273

I. IFB Submittal Checklist

This checklist is provided for the Vendor's convenience and identifies the documents that MUST be submitted for the bid/proposal to be considered responsive, as well as the required forms requested by Hays County.

A COMPLETE SOLICITATION RESPONSE PACKAGE INCLUDES:

The following forms MUST be returned for the bid/proposal to be considered responsive:

X 1. Solicitation, Offer and Award Form completed and signed

X 2. Mandatory Bid Form: Attachment A

X 3. Vendor Reference Form

Required Forms by Hays County:

X 1. Conflict of Interest Questionnaire completed and signed

X 2. Code of Ethics signed

X 3. HUB Practices signed

X 4. House Bill 89 Verification signed and notarized

X 5. Senate Bill 252 Certification

X 6. Debarment & Licensing Certification signed and notarized

X 7. Vendor/Bidder's Affirmation completed and signed

X 8. Related Party Disclosure Form

X 9. Federal Affirmations and Solicitation Acceptance

X 10. FHWA 1273 Certification

____ 11. System for Award Management (www.SAM.gov) Entity Registration Page

X 12. Any addenda applicable to this solicitation

Hays County will accept bids, by the stated due date by one of the following methods:

____ 1. Electronic Submission of Bid Packet through BidNet Direct one (1) hard copy or

____ 2. One original of the proposal and a digital copy on a thumb drive in a sealed envelope with the Solicitation Number and Vendor's Name on the outermost envelope, addressed to:

Hays County Purchasing
712 S Stagecoach Trail, Suite 1071
San Marcos, TX 78666

II. Summary

1. Type of Solicitation:	Invitation for Bid (IFB)
2. Solicitation Number:	IFB 2022-B06 Road Building Materials – Limestone Rock Asphalt, Cold Mix
3. Issuing Office:	Hays County Auditor Purchasing Office 712 S. Stagecoach Trial, Suite 1071 San Marcos, TX 78666
4. Responses to Solicitation:	Sealed proposals marked with Solicitation Number and Respondent Name on the outermost envelope One (1) original and one (1) digital copy on a thumb drive Electronic Bid Packets can be submitted through BidNet Direct and one (1) Hard Copy delivered to Hays County Purchasing
5. Deadline for Responses:	In issuing office no later than: **Tuesday, December 21, 2021; 11:00 AM, Central Time (CT)**
6. Pre-Bid Meeting:	none
7. Bonding Requirements:	none
8. Initial Contract Term:	January 2022 - December 2022
9. Optional Contract Terms:	Four (4) optional one (1) year terms
10. Designated Contact:	Hays County Purchasing Email: purchasing@co.hays.tx.us
11. Questions & Answers:	Questions regarding this solicitation must be made in writing and submitted to the designated contact above no later than December 8, 2021; 5:00 p.m. CT. Telephone inquiries will not be accepted. Questions may be submitted by email to the address above. Answers to questions will be provided in the form of an addendum posted on CivicPlus and ESBD websites for the benefit of all potential respondents. The County reserves the right to contact the person submitting a question to clarify the question received, if necessary. Each clarification, supplement, or addenda to this RFP, if any, will be posted on the CivicPlus, BidNet Direct and ESBD websites. All potential or actual respondents are responsible for monitoring the websites for such materials. Respondents are deemed to have notice of, and are required to comply with, any such material posted in accordance with this paragraph.

Respondents should not rely upon any other sources of written or oral responses to inquiries.

12. Addenda

Any interpretations, corrections or changes to this IFB and specifications will be made by addenda. Sole issuing authority of addenda shall be vested in the Hays County Purchasing Office. It is the Respondent's responsibility to acknowledge receipt of all addenda with bid submission.

13. Contact with County Staff:

Upon issuance of this solicitation, employees and representatives of Hays County, other than the Purchasing Office staff identified as the Designated Contact above, will not discuss the contents of this solicitation with any Respondent or its representatives. Failure of a Respondent or any of its representatives to observe this restriction may result in disqualification of any related offer. This restriction does not preclude discussions between affected parties for the purpose of conducting business unrelated to this procurement.

Anticipated Schedule of Events

November 30, 2021	Issuance of RFP
December 8, 2021	Deadline for Submission of Questions (5:00 PM CT)
December 21, 2021	Deadline for Submission of Bids (11:00 AM CT) **Late bids will not be accepted.**
January 2022	Anticipated contract award date

III. Specifications

A. Introduction

Hays County issues this Invitation for Bid (IFB) to solicit bids for annual contracts for furnishing the materials set forth in this bid invitation. These materials are generally used by the Hays County Transportation Department for road maintenance and construction projects.

B. Materials Requirements

All materials listed shall meet the applicable specifications for the item, class, and type as identified on the bid form (see Attachment A: IFB 2022-B06 Bid Form). For items identified with a "TXDOT Item" number, refer to the Texas Department of Transportation Standard Specifications for Construction and Maintenance of Highways, Streets, and Bridges (adopted November 1, 2014).

Hays County reserves the right to refuse or reject any materials that do not meet the requirements of the specifications. Any materials refused or rejected based on non-conformance with the specifications shall be removed at no cost to the County.

C. Qualifications

RESPONSIBILTY: A prospective bidder must affirmatively demonstrate bidder's responsibility. A prospective bidder must meet the following requirements:

- Have adequate financial resources, or the ability to obtain such resources as required
- Be able to comply with required or proposed delivery schedule
- Have a satisfactory record of performance
- Be otherwise qualified and eligible to receive an award
- Have the proper equipment to fulfill the terms and conditions of this contract such as proper equipment for weighing materials, loading materials, delivering materials, etc.

COMPLIANCE WITH LAWS: The successful bidder shall comply with all applicable federal, state and local laws and regulations pertaining to the practice of the profession and the execution of the duties under the bid.

INSURANCE: The successful bidder will be required to furnish proof of insurance for Workers' Compensation, Auto Liability and General Liability before any work may begin.

TIME OF PERFORMANCE: It is imperative that the prospective respondent respond to County requests in a timely manner and comply with required or proposed delivery schedules. Please describe how you intend to respond to and track County requests.

SYSTEM FOR AWARD MANAGEMENT: Respondent and its Principals may not be debarred or suspended nor otherwise on the Excluded Parties List System (EPLS) in the System for Award Management (SAM). Include verification that the company as well as the company's principals are not listed (are not debarred) through the System for Award Management (www.SAM.gov). Enclose a printout of the search results that includes the record December 10, 2021.

It is the practice of Hays County to encourage local participation and to promote and encourage contracting and subcontracting opportunities for locally owned businesses and labor in all contracts.

The County of Hays does not discriminate on the basis of race, color, national origin, sex, religion, age and disability in employment or the provision of services.

D. Mandatory Bid Form

Respondent must provide its total bid amount by completing the mandatory bid form included as Attachment A: IFB 2022-B06 Bid Form. Pricing for materials shall be bid for pickup by Hays County at the bidder's plant and for delivery to the Hays County Transportation Department located at 2171 Yarrington Road, Kyle, TX 78640. Shipping shall be F.O.B. destination; therefore, material prices for delivery by truck to Hays County must include all shipping, handling/delivery fees and fuel surcharges. Respondent may bid on all or any portion of the items listed for bid.

Hays County is exempt from federal excise and state sales tax; therefore, tax must not be included in this bid.

ESTIMATED QUANTITIES: Quantities listed on the bid form are approximations of annual needs and will be used for the comparison of bids. Individual orders and payments will be made in accordance with the contract. Hays County is not obligated to purchase any minimum amount, and the County may purchase any reasonable amount greater than the estimate for the same unit price. Any limit on quantities available must be stated expressly in the bid.

E. Submittal Requirements

Respondent must deliver the following to the Issuing Office by the specified deadline or upload the proposal electronically to BidNet Direct:

- Mailed or Dropped off Proposals: All items must be in a sealed envelope marked with the Solicitation Number and Respondent Name on the outermost envelope.
  - One (1) original proposal with required forms manually signed by Respondent with original signatures
  - One (1) digital copy of the full proposal with all required forms on a thumb drive
- Electronic Proposals: One of the items below MUST be received by the due date & time
  - Upload proposal with required forms manually signed by Respondent
  - Purchasing Department MUST also receive a hard copy of the proposal

LATE SUBMITTALS WILL NOT BE ACCEPTED.

Submittals may be withdrawn at any time prior to the official opening. After the official opening, submittals may not be amended, altered or withdrawn without the recommendation of the County Purchasing Office and the approval of Commissioners Court. Submittals will be publicly opened at the Office of the Hays County Auditor upon the deadline for submittal. Respondents, their representatives and interested persons may be present. It is understood that Hays County reserves the right to accept or reject any and all submittals as it shall deem to be in the best interest of Hays County.

ALTERING PROPOSALS: Any interlineations, alteration, or erasure made before receiving time must be initialed by the signer of the proposal, guaranteeing authenticity.

FORMS: Changes to forms herein, made by respondents, shall disqualify the respondent. Proposals cannot be altered or amended after submission deadline.

REFERENCES: Hays County requires respondent to supply a list of at least three (3) references (See Section V for Vendor Reference Form) where like services have been supplied by their company. Include name of company, address, telephone number and name of representative.

F. Award of Contract

BASIS OF AWARD: The County reserves the right to award a contract to a bidder on the basis of unit price low bid and/or the best value for the County. The County reserves the right to accept in part or in whole any bids submitted and waive any technicalities for the best interest of the County.

The bid award shall be based on but not necessarily limited to, the following factors:

- Unit pricing
- Special needs and requirements of Hays County
- Vendors past performance record with Hays County
- Hays County's evaluation of vendor's ability to perform
- Vendor's references

CONTRACT: This bid, when properly accepted by Hays County shall constitute a contract equally binding between the successful bidder and Hays County. No negotiations, decisions, or actions shall be initiated or executed by any vendor as a result of any discussions with any County employee. Only those communications that are in writing from the Purchasing Manager shall be considered as a duly authorized expression on behalf of the County. No oral agreements either expressed or implied will be considered in fulfilling this contract. No additional terms will become part of this contract with the exception of Commissioners Court approved change orders.

BIDDER AGREES, if this bid is accepted, to furnish any and all services upon which prices are offered, at the price(s) and upon the terms and conditions contained in the specifications. The period for acceptance of the bid will be sixty (60) calendar days.

The successful bidder expressly warrants that all services specified in the IFB will be performed with care and diligence and in accordance with all specifications of the IFB. The successful bidder agrees to correct any deficiencies in its performance of services upon notification by the County and without additional expense to the County.

MULTIPLE AWARDS can be made. Determination of source to provide materials for specific jobsites will be made by the Hays County Transportation Department. The County reserves the right to purchase materials from another supplier if the lowest bidder cannot fill an order when needed.

G. Contract Term & Price Redetermination

The term of this contract will begin on the date of award by the Hays County Commissioners Court and will be in effect for a year. Hays County reserves the right to extend this contract annually for a maximum of four (4) additional one (1) year periods.

Bid pricing shall be firm for the entire term of the awarded contract. Prices established in continuing agreements and annual term contracts may be raised due to inflation and increased operating costs. Any price increase proposed must be submitted forty-five (45) calendar days prior to the anniversary date of the annual term contract and shall be supported with proper documentation, as provided by the U.S. Department of Labor – Bureau of Labor and Statistics, Producer Price Index (PPI), for the most current data representing a 12-month period at the time of consideration. Hays County will have fifteen (15) days, from the receipt of proposed price increases, to review any proposed price increases and reserves the right to approve or disapprove any request for increased prices. If Hays County disapproves the proposed price increases, the County will issue an intent to terminate, and the contract will not be renewed.

H. Invoicing

Invoices shall be sent directly to the Hays County Auditor, 712 S. Stagecoach Trail, Suite 1071, San Marcos, TX 78666 and attention: Accounts Payable. Payments will be processed after notification that all materials have been received satisfactorily and no unauthorized materials have been received. To

expedite payment and ensure compliance with this contract, all invoices shall refer to the Contract Item Number (ex. B06.1) associated with the materials as listed on the bid form.

I. Warranty of Performance

The successful respondent expressly warrants that all services specified in the IFB will be performed with care and diligence and in accordance with all specifications of the IFB. The successful bidder agrees to correct any deficiencies in performance of services upon notification by the County and without additional expense to the County.

CONTINUING NON-PERFORMANCE of the bidder, in terms of specifications, shall be basis for the termination of the contract by the County. The County shall not pay for merchandise/services that are unsatisfactory. Failure to perform any provision will constitute a default of contract, in which case, corrective action shall take place within ten (10) days from the date of written notice citing the nature of breach. Failure to take corrective action or to provide a satisfactory written reply excusing such failure within the prescribed ten (10) days will authorize the County to terminate this agreement by written notice.

COMPLIANCE WITH LAWS: The successful Respondents shall comply with all applicable federal, state and local laws and regulations pertaining to the practice of the profession and the execution of the duties under the solicitation. Any contract executed as a result of this IFB shall be governed by the laws of the State of Texas.

IV. General Terms and Conditions for Solicitations Applicable To: Invitations for Bid (IFB)

1. GENERAL DEFINITIONS:
    a. "Auditor" means the Hays County Auditor or his/her designee.
    b. "Commissioners Court" means Hays County Commissioners Court.
    c. "Contract" means the contract awarded pursuant to the IFB.
    d. "Contractor" means a person or firm receiving an award of contract from Commissioners Court.
    e. "County" means Hays County, Texas, a political subdivision of the State of Texas.
    f. "County Building" means any County owned buildings and does not include buildings leased by County.
    g. "Is doing business" and "has done business" mean:
        i. Paying or receiving in any calendar year any money or other valuable thing which is worth more than $250 in the aggregate in exchange for personal services or for purchase of any property or property interest, either real or personal, either legal or equitable; or
        ii. Loaning or receiving a loan of money; or goods or otherwise creating or having in existence any legal obligation or debt with a value of more than $250 in the aggregate in a calendar year;
        iii. But does not include any retail transaction for goods or services sold to a Key Contracting Person at a posted, published, or marked price available to the general public.
    h. "Purchasing Manager" means the Hays County Purchasing Manager.
    i. "Sub-contractor" means a person or firm doing business with a Contractor.

2. FUNDING: Funds for payment on this Contract have been provided through the County budget approved by Commissioners Court for this fiscal year only. State of Texas statutes prohibit the obligations and expenditure of public funds beyond the fiscal year for which a budget has been approved. However, the cost of items or services covered by this Contract is considered a recurring requirement and is included as a standard and routine expense of Hays County to be included in each proposed budget within the foreseeable future. County Commissioners expect this to be an integral part of future budgets to be approved during the period of this Contract except for unanticipated needs or events which may prevent such payments against this Contract. However, County cannot guarantee the availability of funds, and enters into this Contract only to the extent such funds are made available. The Fiscal Year for County extends from October 1st of each calendar year to September 30th of the next calendar year.

3. FUNDING OUT: Despite anything to the contrary in this Contract, if, during budget planning and adoption, Commissioners Court fails to provide funding for this Contract for the following fiscal year of County, County may terminate this Contract after giving Contractor thirty (30) calendar days written notice that this Contract is terminated due to the failure to fund it.

4. INVOICING/PAYMENTS:
    a. Contractor shall provide County with an Internal Revenue Form W-9, Request for Taxpayer Identification Number and Certification, that is completed in compliance with the Internal Revenue Code and its rules and regulations before any Contract funds are payable.
    b. As a minimum, invoices shall include: (i) name, address, and telephone number of Contractor and similar information in the event payment is to be made to a different address; (ii) County Contract or Purchase Order number; (iii) identification of products or services as outlined in this Contract; (iv) quantity or quantities, applicable unit prices, total prices, and total amount; and (v) any additional payment information called for by this Contract. County will not pay invoices that are in excess of the amount authorized by the purchase order.
    c. Payment shall be made by check or warrant by County upon satisfactory delivery and acceptance of products and services and submission of an invoice to the address below:
    Hays County Auditor
    Attention: Accounts Payable
    712 S Stagecoach Trail, Suite 1071

San Marcos, Texas 78666

d. Payment shall be deemed to have been made on the date of mailing of the check or warrant. For purposes of payment discounts, time will begin upon satisfactory delivery of products and services and/or submission of acceptable invoice, whichever is last. Partial payments will not be made unless specifically requested and approved by County prior to Contract award.
e. Accrual and payment of interest on overdue payments shall be governed by Tex. Gov't Code Ann., ch. 2251.

5. COUNTY TAXES: If the Contractor subsequently becomes delinquent in the payment of County taxes, it will be grounds for cancellation of the contract. Despite anything to the contrary, if the contractor is delinquent in payment of County property taxes at the time of invoicing, Contractor assigns any payments to be made for performance under this contract to the County Tax Assessor-Collector for the payment of delinquent taxes.

6. PROMPT PAYMENT ACT: TEX. GOV'T CODE ANN., ch 2251 (Vernon Supp. 1995) requires that payments be made within 30 calendar days. If County fails to pay within 30 days, interest on overdue amounts is subject to Chapter 2251, Texas Government Code. The law does not apply if the terms of a federal grant, contract, regulation, or statute prevent local governments from making timely payments with federal funds. Contractors and subcontractors must pay their suppliers interest if the supplier is not paid within 10 calendar days after the contractor or subcontractor receives payment. Contractors must apply for interest payments within 6 months of submitting a proper invoice if they believe such interest was due but not paid. Interest begins accruing 30 days after either of the following, whichever is later; (i) satisfactory delivery or performance has been completed, or, (ii) a correct invoice is received at the designated place.

7. FOB POINT: Delivery of all products under this contract, if any, shall be made Free on Board to final destination, at the address shown in this contract or as indicated on each Purchase Order placed against this contract. The title and risk of loss of the goods shall not pass to County until acceptance takes place at the F.O.B. point.

8. INSPECTION AND ACCEPTANCE: The County office or department receiving items pursuant to this contract shall inspect and accept only those items that are satisfactory to them, and reject those items which are damaged or which do not conform to specifications. Contractor shall be responsible for the proper labeling, packing, and delivery to final destination, including replacement of rejected deliveries.

9. VARIATION IN QUANTITY: No variation in the quantity of any item called for by this contract will be accepted unless such variation has been caused by conditions of loading, shipping, or packing, or allowances in manufacturing processes, and then only to the extent, if any, specified elsewhere in this contract.

10. OFFICIALS NOT TO BENEFIT: If a member of Commissioners Court belongs to a cooperative association, the County may purchase equipment or supplies from the association only if no member of the Commissioners Court will receive a pecuniary benefit from the purchase, other than as reflected in an increase in dividends distributed generally to members of the association.

11. NONDISCRIMINATION; CIVIL RIGHTS/ADA COMPLIANCE:
    a. Contractor shall not engage in employment practices that have the effect of discriminating against employees or prospective employees because of age, race, color, sex, creed, national origin or handicapped condition.
    b. Contractor shall provide all services and activities required in a manner that would comply with the Civil Rights Act of 1964, as amended, the Rehabilitation Act of 1973, Public Law 93-1122, Section 504, and with the provisions of the Americans with Disabilities Act of 1990, Public Law 101-336 [S.933] if Contractor were an entity bound to comply with these laws.

12. CHANGES:

a. This Contract may be amended only by written instrument signed by both County and Contractor. It is acknowledged by Contractor that NO OFFICIAL, EMPLOYEE, AGENT OR REPRESENTATIVE OF COUNTY HAS ANY AUTHORITY, EITHER EXPRESS OR IMPLIED, TO CHANGE THE SCOPE OF THIS CONTRACT OR OTHERWISE AMEND THIS CONTRACT, OR ANY ATTACHMENTS HERETO, UNLESS EXPRESSLY GRANTED THAT AUTHORITY BY THE COMMISSIONERS COURT.
b. Contractor shall submit all requests for changes to this Contract or any attachment(s) to it to the Purchasing Manager. The Purchasing Manager shall present Contractor's requests to Commissioners Court for consideration.

13. REPRESENTATIONS:
    a. Contractor represents that he has thoroughly examined the drawings, specifications, schedule, instructions and all other contract documents. Contractor has made all investigations necessary to be thoroughly informed regarding plant and facilities for delivery of material, equipment and/or services as required by the proposal conditions.
    b. The Contractor's delivery time includes weekends and holidays.
    c. Contractor certifies that he is a qualified, bondable business entity that he is not in receivership or contemplates it, and has not filed for bankruptcy. He further certifies that the Company, Corporation, Partnership, or Sole Proprietorship is not delinquent with respect to payment of County property taxes.
    d. Contractor warrants that all applicable patents and copyrights which may exist on items that will be supplied under the contract have been adhered to and further warrants that County shall not be liable for any infringement of those rights. Warranties granted County shall apply for the duration of this contract or for the life of equipment or supplies purchased, whichever is longer. County must not extend use of the granted exclusive rights to any other than County employees or those with whom County has established a relationship aimed at furthering the public interest, and then only for official public uses. County will not knowingly or intentionally violate any applicable patent, license, or copyright. Contractor must indemnify County, its officers, agents, and employees against all claims, suits, and liability of every kind, including all expenses of litigation, court costs, and attorney's fees arising in connection with any alleged or actual infringement of existing patents, licenses or copyrights applicable to items sold.
    e. The Contractor warrants that upon execution of a contract with the County, he will not engage in employment practices which have the effect of discriminating against employees or prospective employees because of age, religion, race, color, sex, creed, handicap, or national origin and will submit reports as the County may require to assure compliance.
    f. Contractor warrants to County that all items delivered and all services rendered will conform to the specifications, drawings, or other descriptions furnished or incorporated by reference, and will be of merchantable quality, good workmanship, and free from defects. Contractor further agrees to provide copies of applicable warranties or guarantees to the Purchasing Manager. Copies will be provided within 10 days after the Notice of Award is issued. Return of merchandise under warranty shall be at Contractor's expense.

14. SUBCONTRACTS:
    a. Contractor shall not enter into any subcontracts for any service or activity relating to the performance of this Contract without the prior written approval or the prior written waiver of this right of approval from County. IT IS ACKNOWLEDGED BY CONTRACTOR THAT NO OFFICER, AGENT, EMPLOYEE OR REPRESENTATIVE OF COUNTY HAS THE AUTHORITY TO GRANT SUCH APPROVAL OR WAIVER UNLESS EXPRESSLY GRANTED THAT SPECIFIC AUTHORITY BY THE COMMISSIONERS COURT.
    b. If a subcontract is approved, Contractor must make a "good faith" effort to take all necessary and reasonable steps to insure HUBs maximum opportunity to be subcontractors under this Contract. Contractor must obtain County approval of all proposed HUB subcontractors through the Purchasing Manager. Failure by Contractor to make a good faith effort to employ HUBs as subcontractors constitutes a breach of this Contract and may result in termination of this Contract.

15. ASSIGNMENT:
    a. The parties to this Contract shall not assign any of the rights or obligation hereunder without the prior written consent of the other party. No official, employee, representative or agent of County has the authority to approve any assignment under this Contract unless that specific authority is expressly granted by Commissioners Court.
    b. The terms, provisions, covenants, obligations and conditions of this Contract are binding upon and inure to the benefit of the successors in interest and the assigns of the parties to this Contract if the assignment or transfer is made in compliance with the provisions of this Contract.
    c. Contractor remains responsible for the performance of this Contract when there is a change of name or change of ownership. If a change of name is required, the Purchasing Manager shall be notified immediately. No change in the obligation of or to Contractor will be recognized until it is approved by Commissioners Court.

16. DISPUTES AND APPEALS: The Purchasing Manager acts as the County representative in the issuance and administration of this contract in relation to disputes. Any document, notice, or correspondence not issued by or to the Purchasing Manager or other authorized County person, in relation to disputes is void unless otherwise stated in this contract. If the Contractor does not agree with any document, notice, or correspondence issued by the Purchasing Manager, or other authorized County person, the Contractor must submit a written notice to the Purchasing Manager within ten (10) calendar days after receipt of the document, notice, or correspondence, outlining the exact point of disagreement in detail. If the matter is not resolved to the Contractor's satisfaction, Contractor may submit a written Notice of Appeal to the Commissioners Court, through the Purchasing Manager, if the Notice is submitted within ten (10) calendar days after receipt of the unsatisfactory reply. Contractor then has the right to be heard by Commissioners Court.

17. MEDIATION: When mediation is acceptable to both parties in resolving a dispute arising under this Agreement, the parties agree to use a mutually agreed upon mediator, or a person appointed by a court of competent jurisdiction, for mediation as described in Section 154.023 of the Texas Civil Practice and Remedies Code. Unless both parties are satisfied with the result of the mediation, the mediation will not constitute a final and binding resolution of the dispute. All communications within the scope of the mediation shall remain confidential as described in §154.073 of the Texas Civil Practice and Remedies Code, unless both parties agree, in writing, to waive the confidentiality.

18. FORCE MAJEURE: If the performance by either party of any of its obligations under this Contract is interrupted or delayed due to an act of God or the common enemy or as the result of war, riot, civil commotion, sovereign conduct, or the act or conduct of any person or persons not a party to this Contract, then it shall be excused from performance for such period of time as is reasonably necessary to remedy the effects thereof.

19. NON-WAIVER OF DEFAULT:
    a. No payment, act or omission by County may constitute or be construed as a waiver of any breach or default of Contractor which then exists or may subsequently exist. No official, agent, employee or representative of County may waive any breach of any term or condition of this Contract unless expressly granted that specific authority by the Commissioners Court.
    b. All rights of County under this Contract are specifically reserved and any payment, act or omission shall not impair or prejudice any remedy or fight to County under it. Any right or remedy in this Contract shall not preclude the exercise of any other right or remedy under this Contract or under any law, nor shall any action taken in the exercise of any right or remedy be deemed a waiver of any other rights or remedies.

20. TERMINATION FOR DEFAULT: Failure by either County or Contractor to perform any provisions of this Contract shall constitute a breach of contract. Either party may require corrective action within ten (10) calendar days after date of receipt of written notice citing the exact nature of the other's breach. Failure to take corrective action or failure to provide a satisfactory written reply excusing such failure within the ten (10) calendar days

shall constitute a default. The defaulting party shall be given a twenty (20) calendar day period within which to show cause why this Contract shall not be terminated for default. All notices for corrective action, breach, default or show cause on behalf of County shall be issued by the Purchasing Manager or County legal representative only, and all replies to the same shall be made in writing to the County Purchasing Manager or County legal representative at the address provided herein. Notices issued by or to anyone other than the Purchasing Manager or County legal representative shall be null and void, and shall be considered as not having been issued or received. County reserves the right to enforce the performance of this Contract in any manner prescribed by law in case of default and may contract with another party with or without competition or further notification to the contractor. At a minimum, Contractor shall be required to pay any difference in the cost of securing the services covered by this Contract, or compensate for any loss or damage to the County derived hereunder if it becomes necessary to contract with another source because of a default, plus reasonable administrative costs and attorney's fees. In the event of termination for default, County, its agents or representatives, shall not be liable for loss of any profits anticipated under this Contract.

21. TERMINATION FOR CONVENIENCE: County reserves the right to terminate this Contract upon thirty (30) days written notice for any reason deemed by the Commissioners Court to serve the public interest, or resulting from any governmental law, ordinance, regulation, or court order. Termination for convenience shall not be exercised with the sole intention of awarding the same or similar contract requirements to another source. In the event of such termination, County shall pay Contractor those costs directly attributable to work done in preparation for compliance with this Contract prior to termination; provided, however, that no costs shall be paid which are recoverable in the normal course of the business in which Contractor is engaged, nor shall County pay any costs which can be mitigated through the sale of supplies or inventories. If County pays for the cost of supplies or materials obtained for use under this Contract those supplies or materials shall become the property of County and shall be delivered to the FOB point shown in this Contract, or as designated by the Purchasing Manager. County shall not be liable for loss of any profits anticipated under this Contract.

22. GRATUITIES: Contractor shall not provide any gratuity in any form, including entertainment, gifts, or otherwise, to any employee, buyer, agent, or representative of County with a view to securing a contract, or securing favorable treatment with respect to the award or amendment, or the making of any determination with respect to the performance of this Contract. County may terminate this Contract if it is found that gratuities of any kind including entertainment, or gifts were offered or given by the Contractor or any agent or representative of the Contractor, to any County Official or employee with a view toward securing favorable treatment with respect of this contract. If this Contract is terminated by the County pursuant to this provision, County shall be entitled, in addition to any other rights and remedies, to recover from the Contractor at least three times the cost incurred by Contractor in providing the gratuities.

23. COVENANT AGAINST CONTINGENT FEES: Contractor represents and warrants that no persons or selling agency has been retained to solicit this Contract upon an understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial selling agencies maintained by the Contractor to secure business. For breach or violation of this warranty, County shall have the right to terminate this Contract without liability, or in its discretion to, as applicable, add to or deduct from the Contract price for consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

24. COUNTY ACCESS: Contractor shall maintain and make available for inspection, audit or reproduction by any authorized representative of County all books, documents, and other evidence pertinent to the costs and expenses of this Contract, including but not limited to both direct and indirect costs, cost of labor, material, equipment, supplies, and services, and all other costs and expenses of whatever nature for which reimbursement is claimed under this Contract. All required records shall be maintained until an audit is completed and all required questions arising therefrom are resolved, or three (3) years after completion of the contract term, whichever occurs first; provided, however, the records will be retained beyond the third year if an audit is in progress or the finding of a completed audit have not been resolved satisfactorily.

25. FORFEITURE OF CONTRACT:
    a. The selected Offeror must forfeit all benefits of the contract and County must retain all performance by the selected Offeror Contractor and recover all consideration or the value of all consideration paid to the selected Offeror pursuant to the contract if:
    b. The selected Offeror was doing business at the time of submitting its proposal offer or had done business during the 365- day period immediately prior to the date on which its proposal offer was due with one or more Key Contracting Persons if the selected Offeror failed to disclose the name of any such Key Contracting Person in its offer; or
    c. The selected Offeror does business with a Key Contracting Person after the date on which the offer that resulted in the contract is submitted and prior to full performance of the contract.

26. CONTRACTOR CLAIMS NOTIFICATION:
    a. If any claim, or other action, that relates to Contractor's performance under this Contract, including proceedings before an administrative agency, is made or brought by any person, firm, corporation, or other entity against Contractor, Contractor shall give written notice to County of the following information within ten (10) working days after being notified of it:
        i. The existence of the claim, or other action;
        ii. The name and address of the person, firm, corporation or their entity that made a claim or that instituted any type of action or proceeding;
        iii. The alleged basis of the claim, action or proceeding;
        iv. The court or administrative tribunal, if any, where the claim, action or proceeding was instituted; and
        v. The name or names of any person against whom this claim is being made.
    b. Except as otherwise directed, Contractor shall furnish to County copies of all pertinent papers received by Contractor with respect to making these claims or actions and all court pleadings related to the defense of these claims or actions.

27. CERTIFICATION OF ELIGIBILITY: This provision applies if the anticipated Contract exceeds $100,000. By submitting a bid or proposal in response to this solicitation, the bidder/respondent certifies that at the time of submission, he/she is not on the Federal Government's Excluded Parties List System (www.epls.gov), which details a listing of suspended, ineligible, or debarred contractors. In the event of placement on the list between the time of bid/proposal submission and time of award, the bidder/respondent will notify the Hays County Purchasing Manager. Failure to do so may result in terminating this Contract for default.

28. CONTRACTOR LIABILITY, INDEMNIFICATION AND CLAIMS NOTIFICATION: Contractor shall indemnify County, its officers, agents, and employees, from and against any and all third party claims, losses, damages, causes of action, suits, and liability of every kind whether meritorious or not and, including all expenses of litigation, court costs, and reasonable attorney's fees, arising in connection with the services provided by Contractor under this Contract. It is the expressed intention of the Parties to this Contract, both Contractor and County, that the indemnity provided for in this paragraph is indemnity by Contractor to indemnify and protect County from the consequences of Contractor's actions.

29. CONSTRUCTION OF CONTRACT:
    a. This Contract is governed by the laws of the United States of America and the State of Texas and all obligations under this Contract are performable in Hays County, Texas. Venue for any dispute arising out of this Contract will lie in the appropriate court of Hays County, Texas.
    b. If any portion of this Contract is ruled invalid, illegal, or unenforceable in any respect by a court of competent jurisdiction, the remainder of it shall remain valid and binding.
    c. Headings and titles at the beginning of the various provisions of this Contract have been included only to make it easier to locate the subject matter covered by that part, section or subsection and are not to be used in construing this Contract.

d. When any period of time is stated in this Contract, the time shall be computed to exclude the first day and include the last day of period. If the last day of any period falls on a Saturday, Sunday, or a day that Hays County has declared a holiday for its employees, these days shall be omitted from the computation. All hours in this Contract are stated in Central Standard Time from 2:00 o'clock a.m. on the first Sunday of November until 2:00 o'clock a.m. on the second Sunday of March and in Central Daylight Saving Time from 2:00 o' clock a.m. on the second Sunday of March until 2:00 o'clock a.m. on the first Sunday of November or such other dates as may be adopted for the activation of Daylight Savings Time in the United States in future years.
e. Words of any gender in this Contract shall be construed to include any other gender and words in either number shall be construed to include the other unless the context clearly requires otherwise.
f. Provisions, Words, Phrases, and Statutes, whether incorporated by actual use or by reference, shall be applied to this Contract in accordance with Texas Government Code, §§ 312.002 and 312.003.

30. ADDITIONAL GENERAL PROVISIONS:
    a. Contractor must comply with all Federal and State laws and regulations, City and County ordinances, orders, and regulations, relating in any way to this Contract.
    b. Contractor must secure all permits and licenses, pay all charges and fees, and give all notices necessary for lawful operations.
    c. Contractor must pay all taxes and license fees imposed by the Federal and the State Governments and their agencies and political subdivisions upon the property and business of Contractor.
    d. Despite anything to the contrary in this Contract, if the Contractor is delinquent in payment of property taxes at the time of providing services, Contractor assigns the amount of any payment to be made for services provided under this Contract equal to the amount Contractor is delinquent in property tax payments to the Hays County Tax Assessor-Collector for the payment of the delinquent taxes.
    e. In this subsection, "County Building" means any County-owned buildings and does not include buildings leased by County. Contractor must not execute any mortgage, or issue any bonds, shares of stock, or other evidence of interest in County Buildings.

31. INTERPRETATION OF CONTRACT:
    a. This document contains the entire agreement between the parties relating to the rights granted and the obligations assumed. Any prior agreements or representations not expressly set forth in this agreement are of no force. Any oral representations or modifications concerning this agreement shall be of no force except a subsequent modification in writing signed by the Purchasing Manager. No official, representative, employee, or agent of the County has any authority to modify or amend this contract except pursuant to specific authority to do so granted by the Commissioners Court.
    b. If inconsistency exists between provisions of this solicitation, the inconsistency shall be resolved by giving precedence in the following ascending order of precedence:
        i. The Schedule of Items/Services
        ii. Terms and Conditions of Request for Proposals;
        iii. General Provisions;
        iv. Other provisions, whether incorporated by reference or otherwise; and
        v. The specifications.
    c. If any contract provision shall for any reason be held invalid, illegal, or unenforceable in any respect, invalidity, illegality, or unenforceability shall not affect any other provision, and this contract shall be construed as if invalid, illegal or unenforceable provision had never been contained.
    d. This contract shall be governed by the laws of Texas and all obligations are performable in Hays County, Texas.
    e. If a word is used with reference to a particular trade or subject matter or is used as a word of art, the word shall have the meaning given by experts in that particular field.
    f. Words in the present or past tense include the future tense. The singular includes the plural and the plural includes the singular. The masculine gender includes the feminine and neuter genders.

g. The headings in this contract have been included only to make it easier to locate the subject covered by each provision and are not to be used in construing this contract.
h. Provisions, words, phrases, and statutes, whether incorporated by actual use or by reference, shall be applied to this contract in accordance with TEX. GOV'T CODE ANN., SEC 312.002, 312.003 (Vernon 1991).

32. MODIFICATIONS:
    a. The County Purchasing Manager may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this contract in any one of the following:
        i. Drawings, designs or specifications when the supplies to be furnished are to be specifically manufactured for the County in accordance with the drawings, designs, or specifications.
        ii. Method of shipment or packing.
        iii. Place of deliveries.
        iv. Correction of errors of a general administrative nature or other mistakes, the correction of which does not affect the scope of the contract, or does not result in expense to the Contractor.
        v. Description of items to be provided.
        vi. Time of performance (i.e. hours of day, days of week, etc)
    b. If any such change causes an increase or decrease in the cost of, or time required for, performance of any part of the work under this contract whether, or not changed by the order, the Commissioners Court shall make an equitable adjustment in the contract price, the delivery schedule, or both, and shall modify the contract. The Contractor must submit any "proposal for adjustment" under this clause within thirty (30) calendar days from the date of receipt of the written order. However, if the County Purchasing Manager decides that the facts justify it, the County Purchasing Manager may receive and act upon a proposal submitted before final payment of the contract. If the Contractor's proposal includes the cost of property made obsolete or excess by the change, the County shall have the right to prescribe the manner of disposition of the property. Failure to agree to any adjustment shall be a dispute under the Disputes and Appeals clause. However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

33. PRICE CHANGES: The prices offered shall remain firm for the period of the contract. The prices offered shall also remain firm for the option years should the County choose to exercise the option to renew, except for changes that are industry wide and beyond the control of the contractor. Any price increase proposed must be submitted forty-five (45) calendar days prior to the anniversary date of the annual term contract and shall be supported with proper documentation. Hays County will have fifteen (15) days, from the receipt of proposed price increases, to review any proposed price increases and reserves the right to approve or disapprove any request for increased prices. If Hays County disapproves the proposed price increases, the County will issue an intent to terminate, and the contract will not be renewed.

34. INSURANCE AND LIABILITY: During the period of this contract, contractor shall maintain at his expense, insurance with limits not less than those prescribed below. With respect to required insurance, Contractor shall;
    a. Name County as additional insured as its interests may appear.
    b. Provide County a waiver of subrogation.
    c. Provide County with a thirty (30) calendar day advance written notice of cancellation or material change to said insurance.
    d. Provide the County Purchasing Manager at the address shown on Page 1 of this contract, a Certificate of Insurance evidencing required coverage within ten (10) calendar days after receipt of Notice of Award. Also, ensure your certificate contains the contract number as indicated on the Contract Award form when issued by Hays County.
    e. Submit an original certificate of insurance reflecting coverage as follows:

Automobile Liability:	
Bodily Injury (Each person)	$250,000.00
Bodily Injury (Each accident)	$500,000.00

Property Damage	$1,000,000.00

Commercial General Liability (Including Contractual Liability):	
Bodily Injury (Each accident)	$1,000,000.00
Property Damage	$100,000.00

Excess Liability:	
Umbrella Form	Not Required

Labor Liability:	
Worker's Compensation	Meeting Statutory Requirements

V. Vendor Reference Form

List three (3) references of current customers who can verify the quality of service your company provides. The County prefers customers of similar size and scope of work to this proposal/bid. **This form must be returned with your bid/proposal.**

REFERENCE ONE

Company Name: City of Austin

Address: 124th 8th Street, Austin TX 78701

Contact Person and Title:

Phone Number: (512) 974-2500

Scope & Duration of Contract: ongoing - supply coldmix & HMCL

REFERENCE TWO

Company Name: Williamson County

Address: 901 S. Austin Ave. Georgetown, TX 78626

Contact Person and Title: Randy Barker, Purchasing Agent

Phone Number: (512) 943-3553

Scope & Duration of Contract: ongoing - supply cold mix & HMCL

REFERENCE THREE

Company Name: City of San Antonio

Address: PO Box 839966 San Antonio, TX 78283

Contact Person and Title:

Phone Number: (210) 207-5734

Scope & Duration of Contract: ongoing - supply coldmix & HMCL

VI. Certificate of Interested Parties

In 2015, the Texas Legislature adopted House Bill 1295, which added 2252.908 to the Texas Government Code and applies to all contracts entered into on or after January 1, 2016. Section 2252.908 (b)(1)(2) applies only to a contract of a governmental entity or state agency that requires an action or vote by the governing body of the entity or agency before the contract may be signed or that has a value of at least $1 million. In addition, pursuant to Section 2252.908 (d), a governmental entity or state agency may not enter into a contract described by Subsection (b) with a business entity unless the business entity, in accordance with this section and rules adopted under this section, submits a disclosure of interested parties to the governmental entity or state agency at the time the business entity submits the signed contract to the governmental entity or state agency.

With regard to Hays County purchases, a vendor or other person who is awarded a contract or purchase approved by Hays County Commissioners Court is required to electronically complete a Form 1295 through the Texas Ethics Commission website at https://ethics.state.tx.us/whatsnew/elf_info_form1295.htm and submit a signed copy of the form to the Hays County Purchasing office. A contract, including County issued purchase order (if applicable), will not be enforceable or legally binding until the County received and acknowledges receipt of the properly completed Form 1295 from the awarded vendor.

If you do not have access to the link provided above or have any questions, contact Purchasing at 512-393-5532.

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY
CERTIFICATION OF FILING

Certificate Number:
2021-835364

Date Filed:
12/28/2021

Date Acknowledged:

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.
Vulcan Construction Materials, LLC
San Antonio, TX United States

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.
Hays County

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.
IFB 2022-B06
Road Building Materials - Limestone Rock Asphalt, Cold Mix

4 Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
		Controlling	Intermediary
Vulcan Construction Materials, LLC	San Antonio, TX United States	X	

5 Check only if there is NO Interested Party. ☐

6 UNSWORN DECLARATION

My name is Julia Farrar, and my date of birth is 08/07/1997.

My address is 10101 Reunion Place, ste500, San Antonio, TX, 78216, USA.
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Bexar County, State of Texas, on the 28 day of Dec (month), 20 21 (year).

Signature of authorized agent of contracting business entity
(Declarant)

VII. Conflict of Interest Questionnaire

CONFLICT OF INTEREST QUESTIONNAIRE

FORM CIQ

For vendor doing business with local governmental entity

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

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

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

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

OFFICE USE ONLY

Date Received

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

Vulcan Construction Materials, LLC

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

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

None

Name of Officer

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

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

[ ] Yes [ ] No

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

[ ] Yes [ ] No

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

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

7 Signature of vendor doing business with the governmental entity

12/27/21

Date

CONFLICT OF INTEREST QUESTIONNAIRE
For vendor doing business with local governmental entity

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

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

(A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;

(B) a transaction conducted at a price and subject to terms available to the public; or

(C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

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

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

***

(2) the vendor:

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

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor;

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

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor.

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

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

(1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);

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

(3) has a family relationship with a local government officer of that local governmental entity.

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

(1) the date that the vendor:

(A) begins discussions or negotiations to enter into a contract with the local governmental entity; or

(B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or

(2) the date the vendor becomes aware:

(A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);

(B) that the vendor has given one or more gifts described by Subsection (a); or

(C) of a family relationship with a local government officer.

VIII. CODE OF ETHICS FOR HAYS COUNTY

Public employment is a public trust. It is the policy of Hays County to promote and balance the objective of protecting government integrity and the objective of facilitating the recruitment and retention of personnel needed by Hays County. Such a policy implemented by prescribing essential standards of ethical conduct without creating unnecessary obstacles to entering public services.

Public servants must discharge their duties impartially so as to assure fair competitive access to governmental procurement by responsible contractors. Moreover, they should conduct themselves in such a manner as to foster public confidence in the integrity of the Hays County procurement organization.

To achieve the purpose of this article, it is essential that those doing business with Hays County also observe the ethical standards prescribed here.

It shall be a breach of ethics to attempt to influence any public employee, elected official or department head to breach the standards of ethical conduct set forth in this code.

It shall be a breach of ethics for any employee of Hays County or a vendor doing business with the county to participate directly or indirectly in a procurement when the employee or vendor knows that:

The employee or any member of the employee's immediate family, or household has a substantial financial interest pertaining to the procurement. This means ownership of 10% or more of the company involved and/or ownership of stock or other interest or such valued at $2500.00 or more.

A business or organization in which the employee, or any member of the employee's immediate family, has a financial interest pertaining to the procurement.

Gratuities: It shall be a breach of ethics to offer, give or agree to give any employee of Hays County or for any employee to solicit, demand, accept or agree to accept from a vendor, a gratuity of consequence or any 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 controversy, any particular matter pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefore pending before this government.

Kickbacks: 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 Hays County as an inducement for the award of a contract or order.

Contract Clause: The prohibition against gratuities and kickbacks prescribed above shall be conspicuously set forth in every contract and solicitation therefore.

Any effort to influence any employee, elected official, or department head to violate the standards of the code is grounds to void the contract. Certify, by your signature below, that you understand the ethics policy of Hays County and in no way will attempt to violate the code.

SIGNATURE: _____

PRINT NAME & TITLE: Julia Favvar / Analyst

COMPANY NAME: Vulcan Construction Materials, LLC

IX. Hays County Practices Related to Historically Underutilized Businesses

1. STATEMENT OF PRACTICES

Hays County will strive to ensure that all businesses, regardless of size, economic, social or ethnic status have an equal opportunity to participate in the County's procurement processes. The County is committed to promote full and equal business opportunity for all businesses to supply the goods and services needed to support the mission and operations of county government, and seeks to encourage the use of certified historically underutilized businesses (HUB's) through the use of race, ethnic and gender neutral means. It is the practice of Hays County to involve certified HUBs to the greatest extent feasible in the County's procurement of goods, equipment, services and construction projects while maintaining competition and quality of work standards. The County affirms the good faith efforts who recognize and practice similar business standards.

2. DEFINITIONS

Historically underutilized businesses (HUBs), also known as a disadvantaged business enterprise (DBE), are generally business enterprises at least 51% of which is owned and the management and daily business operations are controlled by one or more persons who is/are socially and economically disadvantaged because of his/her identification as a member of certain groups, including women, Black Americans, Mexican Americans, and other Americans if Hispanic origin, Asian Americans and American Indians.

Businesses include firms, corporations, sole proprietorships, vendors, suppliers, contractors, subcontractors, professionals and other similar references when referring to a business that provides goods and/or services regardless of the commodity category.

Certified HUB's include business enterprises that meet the definition of a HUB and who meet the certification requirements of certification agencies recognized by Hays County, as expressed below.

Statutory bid limit refers to the Texas Local Government Code provision that requires competitive bidding for many items valued at greater than $50,000.

3. GUIDELINES

a. Hays County, its contractors, their subcontractors and suppliers, as well as all vendors of goods, equipment and services, shall not discriminate on the basis of race, color, creed, gender, age, religion, national origin, citizenship, mental or physical disability, veteran's status or political affiliation in the award and/or performance of contracts. All entities doing business or anticipating doing business with the County shall support, encourage and implement affirmative steps toward a common goal of establishing equal opportunity for all citizens and businesses of the County.

b. Vendors and/or contractors desiring to participate in the HUB program must successfully complete the certification process with the State of Texas or Texas Unified Certification Program. The vendor or contractor is also required to hold a current valid certification (title) from either of these entities.

c. Vendors and/or contractors must be registered with the State Comptroller's web-based HUB directory and with the Comptroller's Centralized Master Bidder's List (CMBL). Hays County will solicit bids from certified HUB's for state purchasing and public works contracts.

4. Hays County will actively seek and encourage HUBs to participate in all facets of the procurement process by:

    a. Continuing to increase and monitor a database of certified HUB vendors, professionals and contractors. The database will be expanded to include products, areas of expertise and capabilities of each HUB firm.

    b. Continuing to seek new communication links with HUB vendors, professionals and contractors to involve them in the procurement process.

    c. Continuing to advertise bids on the County's website and in the newspapers including newspapers that target socially and economically disadvantaged communities.

5. As prescribed by law, the purchase of one or more items costing in excess of the statutory bid limit must comply with the competitive bid process. Where possible, those bids will be structured to include and encourage the participation of HUB firms in the procurement process by:

    a. Division of proposed requisitions into reasonable lots in keeping with industry standards and competitive bid requirements.

    b. Where feasible, assessment of bond and insurance requirements and the designing of such requirements to reasonably permit more than one business to perform the work.

    c. Specifications of reasonable, realistic delivery schedules consistent with the County's actual requirements.

    d. Specifications, terms and conditions reflecting the County's actual requirements are clearly stated, and do not impose unreasonable or unnecessary contract requirements.

6. A HUB practice statement shall be included in all specifications. The County will consider the bidder's responsiveness to the HUB Practices in the evaluation of bids and proposals. Failure to demonstrate a good faith effort to comply with the County's HUB practices may result in a bid or proposal being considered non-responsive to specifications.

7. Nothing in this practice statement shall be construed to require the County to award a contract other than to the lowest responsive bidder as required by law. This practice is narrowly tailored in accordance with applicable law.

Sign for acknowledgement of the Hays County HUB Practices:

Signature _____ Date 12/27/21

X. Hays County House Bill 89 Verification

I, Julia Farrar (Person name), the undersigned representative of Vulcan Construction Materials, LLC (Company or Business name, hereafter referred to as Company) being an adult over the age of eighteen (18) years of age, after being duly sworn by the undersigned notary, do hereby depose and verify under oath that the company named above, under the provisions of Subtitle F, Title 10, Government Code Chapter 2270:

1. Does not boycott Israel currently; and
2. Will not boycott Israel during the term of the contract.

Pursuant to Section 2270.001, Texas Government Code:

1. *"Boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes; and*

2. *"Company" means a for-profit sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or any limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of those entities or business associations that exist to make a profit.*

Signature of Company Representative — Date: 12/27/21

On this 27 day of Dec, 2021, personally appeared Julia Farrar, the above-named person, who after by me being duly sworn, did swear and confirm that the above is true and correct.

NOTARY SEAL

TAYLOR WITTEN
Notary Public, State of Texas
Comm. Expires 12-02-2025
Notary ID 133471642

Notary Public in and for the State of Texas

12/27/2021
Date

XI. Hays County Purchasing Department Senate Bill 252 Certification

Pursuant to Texas Government Code, Chapter 2252, Section 2252.152 and Section 2252.153, certify that the company named below is not listed on the website of the Comptroller of the State of Texas concerning the listing of companies that are identified under Section 806.051, Section 807.051 or Section 2253.153. I further certify that should the above-named company enter into a contract that is on said listing of companies on the website of the Comptroller of the State of Texas which do business with Iran, Sudan or any Foreign Terrorist Organization, I will immediately notify the Hays County Purchasing Department.

Vulcan Construction Materials, LLC

Company Name

Julia Farrar

Print Name of Company Representative

Signature of Company Representative

12/27/21

Date

CERTIFICATION CHECK PERFORMED BY HAYS COUNTY PURCHASING:

On this day, I, _____, the Purchasing Representative for Hays County in San Marcos, Texas, pursuant to Texas Government Code, Chapter 2252, Section 2252.152 and Section 2252.153, certify that I did review the website of the Comptroller of the State of Texas concerning the listing of companies that is identified under Section 806.051, Section 807.051 or Section 2253.253 and I have ascertained that the above-named company is not contained on said listing of companies which do business with Iran, Sudan or any Foreign Terrorist Organization.

_____

Print Name of Hays County Purchasing Representative

_____

Signature of Hays County Purchasing Representative

_____

Date

_____

RFP or Vendor number

XII. Vendor/Bidder's Affirmation

1. Vendor/Bidder affirms that they are duly authorized to execute this Contract, that this company, corporation, firm, partnership or individual has not prepared this bid in collusion with any other bidder, and that the contents of this bid as to price, terms or conditions of said bid have not been communicated by the undersigned nor by any employee or agent to any other person engages in this type of business prior to the official opening of this bid.

2. Vendor/Bidder hereby assigns to Purchaser any and all claims for overcharges associated with this Contract which arise under the antitrust laws of the United States, 15 USCA Section 1 et seq., and which arise under the antitrust laws of the State of Texas, Tex. Bus. & Com. Code, Section 15.01, et seq.

3. Pursuant to 262.0276 (a) of the Texas Local Government Code, Vendor/Bidder, hereby affirms that Vendor/Bidder:

   X Does not own taxable property in Hays County, or;

   _____ Does not owe any ad valorem taxes to Hays County or is not otherwise indebted to Hays County

Vulcan Construction Company, LLC
Name of Contracting Company

If taxable property is owned in Hays County, list property ID numbers:

_____

Signature of Company Official Authorizing Bid/Offer

Julia Farrar
Printed Name

Sales Analyst
Title

farrarj@vmcmail.com
Email Address

(210) 965-0419
Phone

XIII. Debarment and Licensing Certification

STATE OF TEXAS §
Bexar §
COUNTY OF ~~HAYS~~ §

I, the undersigned, being duly sworn or under penalty of perjury under the laws of the United States and the State of Texas, certifies that Firm named herein below and its principals:

a. Are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any federal department or agency;
b. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
c. Are not presently indicted for or otherwise criminally or civilly charged by a federal, state or local governmental entity with commission of any of the offenses enumerated in paragraph (1)(b) of this certification;
d. Have not within a three-year period preceding this application/proposal had one or more public (federal, state or local) transactions terminated for cause or default;
e. Are registered and licensed in the State of Texas to perform the professional services which are necessary for the project; and
f. Have not been disciplined or issued a formal reprimand by any State agency for professional accreditation within the past three years.

Vulcan Construction Materials, LLC
Name of Firm

Signature of Certifying Official

Analyst
Title of Certifying Official

Julia Farrar
Printed Name of Certifying Official

12/27/21
Date

Where the Firm is unable to certify to any of the statements in this certification, such Firm shall attach an explanation to this certification.

SUBSCRIBED and sworn to before me the undersigned authority by Julia Farrar on this the day of 27, 20 21, on behalf of said Firm.

Notary Public in and for the State of Texas

My commission expires: 12/02/2025

TAYLOR WITTEN
Notary Public, State of Texas
Comm. Expires 12-02-2025
Notary ID 133471642

XIV. Related Party Disclosure Form

Hays County strives to provide financial transparency to its taxpayers. Completion of this form will allow for added transparency into the procurement process by disclosing Vendor relationships with current or former Hays County employees. The existence of a relationship may not present a legal or ethical conflict for a Vendor. However, disclosure will allow for consideration of potential conflicts and/or ways to eliminate conflicts.

A Vendor who Employs any of the following is required to disclose the relationship on this form:

- Current Hays County employee (including elected or appointed official) (Complete Section A)
- Former Hays County employee who has been separated from Hays County for no less than four (4) years (including elected or appointed official) (Complete Section B)
- Person related within the 2nd degree of consanguinity or affinity to either of the above[1] (Complete Section C)

If no known relationships exist, complete Section D.

This form is required to be completed in full and submitted with the proposal package. A submitted proposal package that does not include this completed form will be considered non-responsive and will not be eligible for an award.

Section A: Current Hays County Employee

Employee Name Title

Section B: Former Hays County Employee

Employee Name Title Date of Separation from County

Section C: Person Related to Current or Former Hays County Employee

Employee or Former Employee Name Title

Name of Related Person Title Relationship

Section D: No Known Relationships

If no relationships in accordance with the above exist or are known to exist, provide a written explanation below:

There are no known relationships

Attach additional pages if necessary.

I, the undersigned, hereby certify that the information provided is true and complete to the best of my knowledge.

Vulcan Construction Materials, LLC
Name of Vendor

Signature of Certifying Official

Sales Analyst
Title of Certifying Official

Julia Farrar
Printed Name of Certifying Official

12/28/21
Date

[1]A degree of relationship is determined under Texas Government Code Chapter 573. (as outlined below)

Relationship of Consanguinity				
	1st Degree	**2nd Degree**	**3rd Degree***	**4th Degree***
Person	child or parent	grandchild, sister, brother or grand-parent	great-grandchild, niece, nephew, aunt,* uncle* or great-grandparent	great-great-grandchild, grandniece, grandnephew, first cousin, great aunt,* great uncle* or great-great-grandparent
* An aunt, uncle, great aunt or great uncle is related to a person by consanguinity only if he or she is the sibling of the person's parent or grandparent.				

Relationship of Affinity		
	1st Degree	**2nd Degree**
Person	spouse, mother-in-law, father-in-law, son-in-law, daughter-in-law, stepson, stepdaughter, stepmother or stepfather	brother-in-law, sister-in-law, spouse's grandparent, spouse's grandchild, grandchild's spouse or spouse of grandparent

"Vendor" shall mean any individuals or entity that seeks to enter into a contract with Hays County.

"Employs" shall mean any relationship wherein Vendor has made arrangements to compensate an individual, directly or by way of a business organization in which the individual has a sharehold or ownership interest, even if that arrangement is contractual and/or on an hourly-charge basis.

XV. Federal Affirmations and Solicitation Acceptance

In the event federal funds are used for payment of part or all of the consideration due under any contract resulting from this Solicitation Response, Respondent must execute this **Federal Affirmation and Solicitation Acceptance**, which shall constitute an agreement, without exception, to the following affirmations:

1. **Debarment and Suspension**
   Respondent certifies, by signing this Attachment, that neither it nor any of its principals or subcontractors are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency. This certification is made pursuant to the OMB guidelines at 2 CFR 180 that implement Executive Order 12549 (3 C.F.R. Part 1986 Comp., p. 189) and 12689 (3 C.F.R. Part 1989 Comp., p. 235), Debarment and Suspension, 28 C.F.R. pt. 67, § 67.510, as published as pt. VII of the May 26, 1988, Federal Register (pp. 19160-19211), and any relevant program-specific regulations. This provision shall be required of every subcontractor receiving any payment in whole or in part from federal funds.

2. **Americans with Disabilities Act**
   Respondent and any potential subcontractors shall comply with all terms, conditions, and requirements of the Americans with Disabilities Act of 1990 (P.L. 101-136), 42 U.S.C. 12101, as amended, and regulations adopted thereunder contained in 28 C.F.R. 26.101-36.999, inclusive, and any relevant program- specific regulations.

3. **Discrimination**
   Respondent and any potential subcontractors shall comply with all Federal statutes relating to nondiscrimination. These include, but are not limited to:
   a. Title VI of the Civil Rights Act of 1964 (P.L. 88-352), which prohibits discrimination on the basis of race, color, or national origin;
   b. Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex;
   c. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps;
   d. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101- 6107), which prohibits discrimination on the basis of age;
   e. The Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse;
   f. The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism;
   g. Sections 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records;
   h. Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental, or financing of housing;
   i. Any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and
   j. The requirements of any other nondiscrimination statute(s) that may apply to the application.

4. **Equal Employment Opportunity**
   Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

5. **Wages**

Under the Davis Bacon Act, 40 U.S.C. 276a – 276a-5, as amended, and the regulations adopted thereunder contained in 29 C.F.R. pt. 1 and 5. When required by Federal program legislation, all prime construction contracts in excess of $2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). Respondent and any potential subcontractors have a duty to and shall pay the prevailing wage rate specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

6. **Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708)**
Where applicable, all contracts awarded by the non-Federal entity in excess of $100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

7. Contracts for more than the simplified acquisition threshold currently set at $150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

8. All contracts in excess of $10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be affected and the basis for settlement.

9. **Lobbying**
If Respondent, in connection with any resulting contract from this Solicitation, is a recipient of a Federal contract, grant, or cooperative agreement exceeding $100,000 or a Federal loan or loan guarantee exceeding $150,000, the Contractor shall comply with the requirements of the new restrictions on lobbying contained in Section 1352, Title 31 of the U.S. Code, which are implemented in 15 CFR Part 28. Respondent shall require that the certification language of Section 1352, Title 31 of the U.S. Code be included in the award documents for all subcontracts and require that all subcontractors submit certification and disclosure forms accordingly. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

10. **Rights to Inventions Made Under a Contract or Agreement**
If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

11. Minority and Women's Businesses

Respondent and any potential subcontractors shall take affirmative steps to assure that minority and women's businesses are utilized when possible as sources of supplies, equipment, construction, and services, as detailed in the federal requirements relating to minority and women's business enterprises: Executive Order 11625 of October 13, 1971, 36 Fed. Reg. 19967, as amended by Executive Order No. 12007 of August 22, 1977, 42 Fed. Reg. 42839; Executive Order No. 12432 of July 14, 1983, 48 Fed. Reg., 32551; and Executive Order No. 12138 of May 18, 1979, 44 Fed. Reg. 29637.

12. Environmental Standards

Respondent and any potential subcontractors shall comply with environmental standards that may be prescribed pursuant to the following:

a. Institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514;

b. Notification of violating facilities pursuant to EO 11738;

c. Protection of wetlands pursuant to EO 11990;

d. Evaluation of flood hazards in floodplains in accordance with EO 11988;

e. Assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.);

f. Conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C.§§7401 et seq.);

g. Contracts and subgrants of amounts in excess of $150,000 must contain a provision that requires the non- Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

h. Protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and

i. Protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).

j. Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201).

k. A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded

- $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

13. Historic Properties

Respondent and any potential subcontractors shall assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).

14. All Other Federal Laws

Respondent and any potential subcontractors shall comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing the Solicitation.

I have read, understand, and agree to comply with the Federal Affirmations specified above. Checking "YES" indicates acceptance, while checking "NO" denotes non-acceptance.

YES X NO_____

Authorized Signature: [signature]

Printed Name and Title: Julia Farrar, Sales Analyst

Respondent's Tax ID: 63-1211833 Telephone: (210) 965-0419

If Respondent is a Corporation or other legal entity, please attach a corporate resolution or other appropriate official documentation that states that the person signing this Solicitation Response is an authorized person to sign for and legally bind the corporation or entity.

XVI. FHWA 1273 Certification

I have read, understand, and agree to comply with the FHWA 1273 presented in Attachment B. Checking "YES" indicates acceptance, while checking "NO" denotes non-acceptance.

YES X NO _____

Authorized Signature: _____

Printed Name and Title: Julia Farrar, Sales Analyst

Respondent's Tax ID: 63-1211833 Telephone: (210) 965-0419

If Respondent is a Corporation or other legal entity, please attach a corporate resolution or other appropriate official documentation that states that the person signing this Solicitation Response is an authorized person to sign for and legally bind the corporation or entity.

REQUIRED CONTRACT PROVISIONS
FEDERAL-AID CONSTRUCTION CONTRACTS

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

ATTACHMENTS

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

I. GENERAL

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

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

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

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

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

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

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

II. NONDISCRIMINATION

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6. Training and Promotion:

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

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

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

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

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

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

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

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

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

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

8. Reasonable Accommodation for Applicants / Employees with Disabilities: The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

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

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

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

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

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

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

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

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

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

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

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

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

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

III. NONSEGREGATED FACILITIES

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

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

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

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

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

1. Minimum wages

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

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH–1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

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

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

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

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

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

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

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

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

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

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

2. Withholding

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

3. Payrolls and basic records

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

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

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

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

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

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

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

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

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

4. Apprentices and trainees

a. Apprentices (programs of the USDOL).

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

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

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

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

b. Trainees (programs of the USDOL).

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

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

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

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

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

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

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

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

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

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

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

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

10. Certification of eligibility.

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

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

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

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

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

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

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

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

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

VI. SUBLETTING OR ASSIGNING THE CONTRACT

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

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

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

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

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

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

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

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

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

VII. SAFETY: ACCIDENT PREVENTION

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

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

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

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

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

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

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

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

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

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

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

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

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

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

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

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.
2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

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

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

1. Instructions for Certification – First Tier Participants:

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

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

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

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

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

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

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

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

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

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

* * * * *

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

* * * * *

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

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

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

* * * * *

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

OFFICE OF THE COUNTY AUDITOR

Hays County Purchasing
712 S. Stagecoach Trail, Ste. 1071
San Marcos, Texas 78666
512-393-2283

Marisol Villarreal-Alonzo, CPA
County Auditor
marisol.alonzo@co.hays.tx.us

Vickie G. Dorsett
Assistant County Auditor
vickie.dorsett@co.hays.tx.us

December 13, 2021

ADDENDUM #1
IFB 2022-B06 Road Building Materials – Limestone Rock Asphalt, Cold Mix

Please find attached Addendum #1 to **IFB 2022-B06 Road Building Materials – Limestone Rock Asphalt, Cold Mix.**

Included in this addendum:

- Extended Question Deadline:
  - Original Deadline: December 8, 2021 @ 5:00 PM (CST)
  - New Deadline: December 20, 2021 @ 5:00 PM (CST)
- Extended Bid Deadline:
  - Original Deadline: December 21, 2021 @ 11:00 AM (CST)
  - New Deadline: December 30, 2021 @ 11:00 AM (CST)

Acknowledge receipt of this addendum by signing and returning this page with your proposal.

Signature

Vulcan Construction Company, LLC 12/28/21
Company Name Date

Attachment A: IFB 2022-B06 Bid Form
Road Building Materials – Limestone Rock Asphalt, Cold Mix

In compliance with the Invitation for Bid, the undersigned Bidder having examined the Specifications, and being familiar with the conditions to be met, hereby submits the following Bid for furnishing the material, equipment, labor and everything necessary for providing the items listed below and agrees to deliver said items as requested for the prices set forth on this form. A bid will be subject to being considered irregular and may be rejected if it shows omissions, alterations of form, conditional alternate bids, additions or alternates in lieu of the items specified, if the unit prices are obviously unbalanced (either in excess of or below reasonably expected values), or irregularities of any kind. **Quantities listed are approximations of annual needs and will be used for the comparison of bids.** Individual orders and payments will be made in accordance with the contract.

MATERIALS ONLY

Contract Item Number	Item Number	Description	Estimated Quantity (+/-)	Unit of Measure	Bid Price Per Unit (Pickup)	Bid Price Per Unit (Delivered to 2171 Yarrington Road)
B06.1	TXDOT Item 330 Limestone Rock Asphalt Pavement	Type I Grade A	3,000	tons	NB	NB
B06.2	TXDOT Item 330 Limestone Rock Asphalt Pavement	Type I Grade A (Plus)	3,000	tons	$53.50	$83.86
B06.3	TXDOT Item 330 Limestone Rock Asphalt Pavement	Type I Grade B	1,000	tons	NB	NB
B06.4	TXDOT Item 330 Limestone Rock Asphalt Pavement	Type I Grade B (Plus)	1,000	tons	$53.00	$83.36
B06.5	TXDOT Item 330 Limestone Rock Asphalt Pavement	Type I Grade C	1,000	tons	NB	NB
B06.6	TXDOT Item 330 Limestone Rock Asphalt Pavement	Type I Grade C (Plus)	1,000	tons	$53.00	$83.36
B06.7	TXDOT Item 330 Limestone Rock Asphalt Pavement	Type II Grade DS	10,000	tons	NB	NB
B06.8	TXDOT Item 330 Limestone Rock Asphalt Pavement	Type II Grade DS (Plus)	10,000	tons	$54.00	$84.36

BIDDER INFORMATION AND CERTIFICATION

Delivery days after receipt of order: 5 Days

Minimum load for delivery: 24 tons

Plant Location: Dabney Plant

Contact name and phone at plant: Dabney - 830-278-6205 Bill

The undersigned affirms that they are duly authorized to execute a contract, that this Bid has not been prepared in collusion with any other Respondent, nor any employee of Hays County, and that the contents of this Bid have not been communicated to any other Respondent or to any employee of Hays County prior to the official opening.

Signature of Authorized Representative:

Printed Name: Julia Farrar

Date: 12/28/21

Company Name: Vulcan Construction Materials, LLC

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court
Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Discussion and possible action to award contract for IFB 2022-B07 Road Building Materials - Hot Mix Thin Overlay to Colorado Materials, Ltd. (primary vendor) and Asphalt Inc. LLC, dba Lone Star Paving Company (secondary vendor).

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
ACTION-ROADS	January 18, 2022	

LINE ITEM NUMBER

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: YES **AUDITOR REVIEW:** MARISOL VILLARREAL-ALONZO

REQUESTED BY	SPONSOR	CO-SPONSOR
Jerry Borcherding	BECERRA	N/A

SUMMARY

Purchasing received two bids pursuant to IFB 2022-B07 Road Building Materials - Hot Mix Thin Overlay. It is the staff's recommendation to award the contract to Colorado Materials, Ltd. as the primary vendor, and Asphalt Inc. LLC, dba Lone Star Paving as the secondary vendor. The secondary vendor is to be utilized when the primary vendor is unable to fulfill orders requested by the Road Department.

Attached:
IFB 2022-B07 Road Building Materials - Hot Mix Thin Overlay, Colorado Materials, Ltd. Contract
IFB 2022-B07 Road Building Materials - Hot Mix Thin Overlay, Asphalt inc., LLC dba Lone Star Paving Company. Contract
IFB 2022-B07 Bid Tab

SOLICITATION, OFFER AND AWARD

Hays County Auditor
Purchasing Office
712 S. Stagecoach Trail, Suite 1071
San Marcos, Texas 78666

Solicitation No.: IFB 2022-B07 Road Building Materials – Hot Mix Thin Overlay	Date Issued: November 30, 2021

SOLICITATION

Respondents must submit proposals as listed: One (1) original and one (1) digital copy on a thumb drive at the Hays County Purchasing Office at the address shown above or Electronically through BidNet Direct and one (1) hard copy at the Hays County Purchasing Office at the address shown above until:

1:00 p.m. local time December 21, 2021.

Proposals received after the time and date set for submission will be returned unopened.

For information please email: purchasing@co.hays.tx.us	Questions concerning this RFP must be received in writing no later than 5:00 on December 8, 2021	Phone No.: (512) 393-2283

OFFER (Must be fully completed by Respondent)

In compliance with the above, the undersigned offers and agrees to furnish all items or services awarded at the prices stipulated for each item delivered at the designated point(s) and within the time specified herein. Award shall include all solicitation documents and attachments.

MANUALLY SIGN ALL COPIES SUBMITTED. SIGNATURE IS MANDATORY.

Respondent		Respondent's Authorized Representative	
Entity Name:	Asphalt Inc. LLC, dba Lone Star Paving	Company Name:	Alex Flores
Mailing Address:	11675 Jollyville Rd Suite #150 Austin, TX 78759	Title:	Vice President
		Email Address:	alex@lspaving.com
		Phone No.:	214-926-9104
Signature:		Date:	12/30/2021
Name, Email Address and Phone No. of person authorized to conduct negotiations on behalf of Respondent:	Alex Flores, Same as Above (SAA)		

NOTICE OF AWARD (To be completed by County)

Funding Source:	Awarded as to Item(s):	Contract Amount:
Vendor: Asphalt Inc, LLC. dba. Lone Star Paving Company	Secondary vendor on all items	Per the bid sheet
This contract issued pursuant to award made by Commissioners Court on:	Date: January 18, 2022	Term of Contract: 1 year w/ (4) 1-yr renewals Agenda Item:

Important: Award notice may be made on this form or by other Authorized official written notice.

Hays County Judge _____ Date _____

Hays County Clerk _____ Date _____

Attachment A: IFB 2022-B07 Bid Form
Road Building Materials – Hot Mix Thin Overlay

In compliance with the Invitation for Bid, the undersigned Bidder having examined the Specifications, and being familiar with the conditions to be met, hereby submits the following Bid for furnishing the material, equipment, labor and everything necessary for providing the items listed below and agrees to deliver said items as requested for the prices set forth on this form. A bid will be subject to being considered irregular and may be rejected if it shows omissions, alterations of form, conditional alternate bids, additions or alternates in lieu of the items specified, if the unit prices are obviously unbalanced (either in excess of or below reasonably expected values), or irregularities of any kind. **Quantities listed are approximations of annual needs and will be used for the comparison of bids.** Individual orders and payments will be made in accordance with the contract.

MATERIALS ONLY

Contract Item Number	Item Number	Description	Estimated Quantity (+/-)	Unit of Measure	Bid Price Per Unit (PICKUP)	Bid Price Per Unit (DELIVERED)
B07.1	TXDOT Item 347 Thin Overlay Mixtures (TOM)	Type C	1,000	tons	$200.00	$200.00
B07.2	TXDOT Item 347 Thin Overlay Mixtures (TOM)	Type F	1,000	tons	$250.00	$250.00

SERVICE ONLY

Contract materials to be delivered to jobsite on an as-needed basis, as directed by Hays County Staff

IMPORTANT: A BID FOR MATERIAL TRANSPORTATION SERVICE IS REQUIRED FOR A DELIVERED MATERIALS BID TO BE CONSIDERED RESPONSIVE

Contract Item Number	Description	Estimated Quantity (+/-)	Unit of Measure	Bid Price Per Unit
B07.3	Material Transportation Service (per mile per ton)	VARIES	miles	$ 0.50
B07.4	Demurrage Charge (per hour)	1	hour	$ 120.00

BIDDER INFORMATION AND CERTIFICATION

Delivery days after receipt of order: 10 days

Minimum load for delivery: 400 tons

Plant Location: 1365 FM 2770 Buda TX 78610

Contact name and phone at plant: Rick Reed - 830-431-0082

The undersigned affirms that they are duly authorized to execute a contract, that this Bid has not been prepared in collusion with any other Respondent, nor any employee of Hays County, and that the contents of this Bid have not been communicated to any other Respondent or to any employee of Hays County prior to the official opening.

Signature of Authorized Representative: [signature]

Printed Name: Alex Flores Date: 12/30/2021

Company Name: Lone Star Paving

V. Vendor Reference Form

List three (3) references of current customers who can verify the quality of service your company provides. The County prefers customers of similar size and scope of work to this proposal/bid. **This form must be returned with your bid/proposal.**

REFERENCE ONE

Company Name: The State Of Texas

Address: _____

Contact Person and Title: Mike Arellano

Phone Number: 512-585-3197

Scope & Duration of Contract: Yearly Maintence Contract

REFERENCE TWO

Company Name: Travis County

Address: _____

Contact Person and Title: Scott Lambert

Phone Number: 512-848-7673

Scope & Duration of Contract: Yearly Maintence Contract

REFERENCE THREE

Company Name: City Of RoundRock

Address: _____

Contact Person and Title: Matt Fitzgerald

Phone Number: 512-848-4797

Scope & Duration of Contract: City contract since 2015

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY
CERTIFICATION OF FILING

Certificate Number:
2021-834703

Date Filed:
12/21/2021

Date Acknowledged:

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.
Asphalt Inc.,LLC dba Lone Star paving Company
Austin, TX United States

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.
Hays County Purchasing

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.
IFB 2022-B07
Purchase of Road Building Materials- Hot Mix Thin Overlay

4 Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
		Controlling	Intermediary
Wheeler, Jack	Austin, TX United States	X	
Nolan Wheeler Heritage Trust,	Austin, TX United States	X	
Patrick Wheeler Heritage Trust,	Austin, TX United States	X	
Kaitlin Wheeler Heritage Trust,	Austin, TX United States	X	
Asphalt Inc Employee Investments,	Austin, TX United States	X	
Lundquist, Dean	Leander, TX United States	X	
Cabaza, Aaron	Austin, TX United States	X	
Carroll, Brian	Temple, TX United States		X
Condon, Josh	Austin, TX United States	X	
Morisey, Greg	Austin, TX United States	X	
Playfair, Thomas	Austin, TX United States	X	
Knox, Allen	Austin, TX United States	X	
Ohlendorf, Ryan	Austin, TX United States	X	
Ramming, John	Austin, TX United States	X	
Naivar, Joe	Austin, TX United States	X	
Spinn, Stephen	Austin, TX United States	X	

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY
CERTIFICATION OF FILING

Certificate Number:
2021-834703

Date Filed:
12/21/2021

Date Acknowledged:

1 **Name of business entity filing form, and the city, state and country of the business entity's place of business.**
Asphalt Inc.,LLC dba Lone Star paving Company
Austin, TX United States

2 **Name of governmental entity or state agency that is a party to the contract for which the form is being filed.**
Hays County Purchasing

3 **Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.**
IFB 2022-B07
Purchase of Road Building Materials- Hot Mix Thin Overlay

4 Name of Interested Party	City, State, Country (place of business)	Nature of Interest (check applicable)	
		Controlling	Intermediary

5 **Check only if there is NO Interested Party.** ☐

6 **UNSWORN DECLARATION**

My name is Andrew Warner, and my date of birth is 03/11/1981.

My address is 4025 Beneffon Way (street), Leander (city), TX (state), 78641 (zip code), USA (country).

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Travis County, State of TX, on the 21st day of December (month), 20 21 (year).

Signature of authorized agent of contracting business entity
(Declarant)

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY
CERTIFICATION OF FILING

Certificate Number:
2021-834703

Date Filed:
12/21/2021

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01/12/2022

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

Asphalt Inc.,LLC dba Lone Star paving Company
Austin, TX United States

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Hays County Purchasing

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

IFB 2022-B07
Purchase of Road Building Materials- Hot Mix Thin Overlay

4 Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
		Controlling	Intermediary
Wheeler, Jack	Austin, TX United States	X	
Nolan Wheeler Heritage Trust,	Austin, TX United States	X	
Patrick Wheeler Heritage Trust,	Austin, TX United States	X	
Kaitlin Wheeler Heritage Trust,	Austin, TX United States	X	
Asphalt Inc Employee Investments,	Austin, TX United States	X	
Lundquist, Dean	Leander, TX United States	X	
Cabaza, Aaron	Austin, TX United States	X	
Carroll, Brian	Temple, TX United States		X
Condon, Josh	Austin, TX United States	X	
Morisey, Greg	Austin, TX United States	X	
Playfair, Thomas	Austin, TX United States	X	
Knox, Allen	Austin, TX United States	X	
Ohlendorf, Ryan	Austin, TX United States	X	
Ramming, John	Austin, TX United States	X	
Naivar, Joe	Austin, TX United States	X	
Spinn, Stephen	Austin, TX United States	X	

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

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CERTIFICATION OF FILING

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1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

Asphalt Inc.,LLC dba Lone Star paving Company
Austin, TX United States

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Hays County Purchasing

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

IFB 2022-B07
Purchase of Road Building Materials- Hot Mix Thin Overlay

4 Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
		Controlling	Intermediary

5 Check only if there is NO Interested Party. ☐

6 UNSWORN DECLARATION

My name is _____, and my date of birth is _____.

My address is _____, _____, _____, _____, _____.
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in _____ County, State of _____, on the _____ day of _____, 20_____.
(month) (year)

_____
Signature of authorized agent of contracting business entity
(Declarant)

VII. Conflict of Interest Questionnaire

CONFLICT OF INTEREST QUESTIONNAIRE

FORM CIQ

For vendor doing business with local governmental entity

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

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

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

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

OFFICE USE ONLY
Date Received

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

Asphalt Inc., LLC dba Lone Star Paving Company

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

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

N/A

Name of Officer

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

N/A

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

☐ Yes ☐ No

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

☐ Yes ☐ No

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

NA

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

7

Signature of vendor doing business with the governmental entity

12/21/2021

Date

Form provided by Texas Ethics Commission www.ethics.state.tx.us Revised 11/30/2015

CONFLICT OF INTEREST QUESTIONNAIRE
For vendor doing business with local governmental entity

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

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

(A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;

(B) a transaction conducted at a price and subject to terms available to the public; or

(C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

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

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

***

(2) the vendor:

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

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor;

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

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor.

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

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

(1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);

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

(3) has a family relationship with a local government officer of that local governmental entity.

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

(1) the date that the vendor:

(A) begins discussions or negotiations to enter into a contract with the local governmental entity; or

(B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or

(2) the date the vendor becomes aware:

(A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);

(B) that the vendor has given one or more gifts described by Subsection (a); or

(C) of a family relationship with a local government officer.

VIII. CODE OF ETHICS FOR HAYS COUNTY

Public employment is a public trust. It is the policy of Hays County to promote and balance the objective of protecting government integrity and the objective of facilitating the recruitment and retention of personnel needed by Hays County. Such a policy implemented by prescribing essential standards of ethical conduct without creating unnecessary obstacles to entering public services.

Public servants must discharge their duties impartially so as to assure fair competitive access to governmental procurement by responsible contractors. Moreover, they should conduct themselves in such a manner as to foster public confidence in the integrity of the Hays County procurement organization.

To achieve the purpose of this article, it is essential that those doing business with Hays County also observe the ethical standards prescribed here.

It shall be a breach of ethics to attempt to influence any public employee, elected official or department head to breach the standards of ethical conduct set forth in this code.

It shall be a breach of ethics for any employee of Hays County or a vendor doing business with the county to participate directly or indirectly in a procurement when the employee or vendor knows that:

The employee or any member of the employee's immediate family, or household has a substantial financial interest pertaining to the procurement. This means ownership of 10% or more of the company involved and/or ownership of stock or other interest or such valued at $2500.00 or more.

A business or organization in which the employee, or any member of the employee's immediate family, has a financial interest pertaining to the procurement.

Gratuities: It shall be a breach of ethics to offer, give or agree to give any employee of Hays County or for any employee to solicit, demand, accept or agree to accept from a vendor, a gratuity of consequence or any 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 controversy, any particular matter pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefore pending before this government.

Kickbacks: 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 Hays County as an inducement for the award of a contract or order.

Contract Clause: The prohibition against gratuities and kickbacks prescribed above shall be conspicuously set forth in every contract and solicitation therefore.

Any effort to influence any employee, elected official, or department head to violate the standards of the code is grounds to void the contract. Certify, by your signature below, that you understand the ethics policy of Hays County and in no way will attempt to violate the code.

SIGNATURE: _____

PRINT NAME & TITLE: Alex Flores Vice President

COMPANY NAME: Asphalt Inc., LLC dba Lone Star Paving Company

IX. Hays County Practices Related to Historically Underutilized Businesses

1. STATEMENT OF PRACTICES

Hays County will strive to ensure that all businesses, regardless of size, economic, social or ethnic status have an equal opportunity to participate in the County's procurement processes. The County is committed to promote full and equal business opportunity for all businesses to supply the goods and services needed to support the mission and operations of county government, and seeks to encourage the use of certified historically underutilized businesses (HUB's) through the use of race, ethnic and gender neutral means. It is the practice of Hays County to involve certified HUBs to the greatest extent feasible in the County's procurement of goods, equipment, services and construction projects while maintaining competition and quality of work standards. The County affirms the good faith efforts who recognize and practice similar business standards.

2. DEFINITIONS

Historically underutilized businesses (HUBs), also known as a disadvantaged business enterprise (DBE), are generally business enterprises at least 51% of which is owned and the management and daily business operations are controlled by one or more persons who is/are socially and economically disadvantaged because of his/her identification as a member of certain groups, including women, Black Americans, Mexican Americans, and other Americans if Hispanic origin, Asian Americans and American Indians.

Businesses include firms, corporations, sole proprietorships, vendors, suppliers, contractors, subcontractors, professionals and other similar references when referring to a business that provides goods and/or services regardless of the commodity category.

Certified HUB's include business enterprises that meet the definition of a HUB and who meet the certification requirements of certification agencies recognized by Hays County, as expressed below.

Statutory bid limit refers to the Texas Local Government Code provision that requires competitive bidding for many items valued at greater than $50,000.

3. GUIDELINES

a. Hays County, its contractors, their subcontractors and suppliers, as well as all vendors of goods, equipment and services, shall not discriminate on the basis of race, color, creed, gender, age, religion, national origin, citizenship, mental or physical disability, veteran's status or political affiliation in the award and/or performance of contracts. All entities doing business or anticipating doing business with the County shall support, encourage and implement affirmative steps toward a common goal of establishing equal opportunity for all citizens and businesses of the County.

b. Vendors and/or contractors desiring to participate in the HUB program must successfully complete the certification process with the State of Texas or Texas Unified Certification Program. The vendor or contractor is also required to hold a current valid certification (title) from either of these entities.

c. Vendors and/or contractors must be registered with the State Comptroller's web-based HUB directory and with the Comptroller's Centralized Master Bidder's List (CMBL). Hays County will solicit bids from certified HUB's for state purchasing and public works contracts.

4. Hays County will actively seek and encourage HUBs to participate in all facets of the procurement process by:

   a. Continuing to increase and monitor a database of certified HUB vendors, professionals and contractors. The database will be expanded to include products, areas of expertise and capabilities of each HUB firm.

   b. Continuing to seek new communication links with HUB vendors, professionals and contractors to involve them in the procurement process.

   c. Continuing to advertise bids on the County's website and in the newspapers including newspapers that target socially and economically disadvantaged communities.

5. As prescribed by law, the purchase of one or more items costing in excess of the statutory bid limit must comply with the competitive bid process. Where possible, those bids will be structured to include and encourage the participation of HUB firms in the procurement process by:

   a. Division of proposed requisitions into reasonable lots in keeping with industry standards and competitive bid requirements.

   b. Where feasible, assessment of bond and insurance requirements and the designing of such requirements to reasonably permit more than one business to perform the work.

   c. Specifications of reasonable, realistic delivery schedules consistent with the County's actual requirements.

   d. Specifications, terms and conditions reflecting the County's actual requirements are clearly stated, and do not impose unreasonable or unnecessary contract requirements.

6. A HUB practice statement shall be included in all specifications. The County will consider the bidder's responsiveness to the HUB Practices in the evaluation of bids and proposals. Failure to demonstrate a good faith effort to comply with the County's HUB practices may result in a bid or proposal being considered non-responsive to specifications.

7. Nothing in this practice statement shall be construed to require the County to award a contract other than to the lowest responsive bidder as required by law. This practice is narrowly tailored in accordance with applicable law.

Sign for acknowledgement of the Hays County HUB Practices:

Signature

12-21-2021

Date

X. Hays County House Bill 89 Verification

I, Alex Flores (Person name), the undersigned representative of Asphalt Inc. LLC, dba Lone Star Paving Company (Company or Business name, hereafter referred to as Company) being an adult over the age of eighteen (18) years of age, after being duly sworn by the undersigned notary, do hereby depose and verify under oath that the company named above, under the provisions of Subtitle F, Title 10, Government Code Chapter 2270:

1. Does not boycott Israel currently; and
2. Will not boycott Israel during the term of the contract.

Pursuant to Section 2270.001, Texas Government Code:

1. *"Boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes; and*

2. *"Company" means a for-profit sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or any limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of those entities or business associations that exist to make a profit.*

Signature of Company Representative

12-21-2021
Date

On this 21st day of December, 2021, personally appeared Alex Flores, the above-named person, who after by me being duly sworn, did swear and confirm that the above is true and correct.

NOTARY SEAL

Stephanie Whitten
Notary Public in and for the State of Texas

Stephanie Paige Whitten
My Commission Expires
07/26/2023
ID No. 132104667

12/21/2021
Date

XI. Hays County Purchasing Department Senate Bill 252 Certification

Pursuant to Texas Government Code, Chapter 2252, Section 2252.152 and Section 2252.153, certify that the company named below is not listed on the website of the Comptroller of the State of Texas concerning the listing of companies that are identified under Section 806.051, Section 807.051 or Section 2253.153. I further certify that should the above-named company enter into a contract that is on said listing of companies on the website of the Comptroller of the State of Texas which do business with Iran, Sudan or any Foreign Terrorist Organization, I will immediately notify the Hays County Purchasing Department.

Asphalt Inc., LLC dba Lone Star Paving Company

Company Name

Alex Flores

Print Name of Company Representative

Signature of Company Representative

12-21-2021

Date

CERTIFICATION CHECK PERFORMED BY HAYS COUNTY PURCHASING:

On this day, I, Stephanie Hunt, the Purchasing Representative for Hays County in San Marcos, Texas, pursuant to Texas Government Code, Chapter 2252, Section 2252.152 and Section 2252.153, certify that I did review the website of the Comptroller of the State of Texas concerning the listing of companies that is identified under Section 806.051, Section 807.051 or Section 2253.253 and I have ascertained that the above-named company is not contained on said listing of companies which do business with Iran, Sudan or any Foreign Terrorist Organization.

Stephanie Hunt

Print Name of Hays County Purchasing Representative

Stephanie Hunt

Signature of Hays County Purchasing Representative

Jan. 12, 2022

Date

IFB 2022-B07

RFP or Vendor number

XII. Vendor/Bidder's Affirmation

1. Vendor/Bidder affirms that they are duly authorized to execute this Contract, that this company, corporation, firm, partnership or individual has not prepared this bid in collusion with any other bidder, and that the contents of this bid as to price, terms or conditions of said bid have not been communicated by the undersigned nor by any employee or agent to any other person engages in this type of business prior to the official opening of this bid.

2. Vendor/Bidder hereby assigns to Purchaser any and all claims for overcharges associated with this Contract which arise under the antitrust laws of the United States, 15 USCA Section 1 et seq., and which arise under the antitrust laws of the State of Texas, Tex. Bus. & Com. Code, Section 15.01, et seq.

3. Pursuant to 262.0276 (a) of the Texas Local Government Code, Vendor/Bidder, hereby affirms that Vendor/Bidder:

   _____ Does not own taxable property in Hays County, or;

   ___✓___ Does not owe any ad valorem taxes to Hays County or is not otherwise indebted to Hays County

Asphalt Inc. LLC, dba Lone Star Paving Company
Name of Contracting Company

If taxable property is owned in Hays County, list property ID numbers:

_____

Signature of Company Official Authorizing Bid/Offer

Alex Flores
Printed Name

Vice President
Title

alex@lspaving.com
Email Address

214-926-9104
Phone

XIII. Debarment and Licensing Certification

STATE OF TEXAS §
§
COUNTY OF HAYS §

I, the undersigned, being duly sworn or under penalty of perjury under the laws of the United States and the State of Texas, certifies that Firm named herein below and its principals:

a. Are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any federal department or agency;
b. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
c. Are not presently indicted for or otherwise criminally or civilly charged by a federal, state or local governmental entity with commission of any of the offenses enumerated in paragraph (1)(b) of this certification;
d. Have not within a three-year period preceding this application/proposal had one or more public (federal, state or local) transactions terminated for cause or default;
e. Are registered and licensed in the State of Texas to perform the professional services which are necessary for the project; and
f. Have not been disciplined or issued a formal reprimand by any State agency for professional accreditation within the past three years.

Asphalt Inc. LLC, dba Lone Star Paving Company
Name of Firm

Signature of Certifying Official

Vice President
Title of Certifying Official

Alex Flores
Printed Name of Certifying Official

12-21-2021
Date

Where the Firm is unable to certify to any of the statements in this certification, such Firm shall attach an explanation to this certification.

SUBSCRIBED and sworn to before me the undersigned authority by Alex Flores on this the day of 21st, 2021, on behalf of said Firm.

Stephanie Whitten
Notary Public in and for the State of Texas

My commission expires: 7/26/2023

Stephanie Paige Whitten
My Commission Expires
07/26/2023
ID No. 132104667

XIV. Related Party Disclosure Form

Hays County strives to provide financial transparency to its taxpayers. Completion of this form will allow for added transparency into the procurement process by disclosing Vendor relationships with current or former Hays County employees. The existence of a relationship may not present a legal or ethical conflict for a Vendor. However, disclosure will allow for consideration of potential conflicts and/or ways to eliminate conflicts.

A Vendor who Employs any of the following is required to disclose the relationship on this form:

- Current Hays County employee (including elected or appointed official) (Complete Section A)
- Former Hays County employee who has been separated from Hays County for no less than four (4) years (including elected or appointed official) (Complete Section B)
- Person related within the 2nd degree of consanguinity or affinity to either of the above[1] (Complete Section C)

If no known relationships exist, complete Section D.

This form is required to be completed in full and submitted with the proposal package. A submitted proposal package that does not include this completed form will be considered non-responsive and will not be eligible for an award.

Section A: Current Hays County Employee

Employee Name Title

Section B: Former Hays County Employee

Employee Name Title Date of Separation from County

Section C: Person Related to Current or Former Hays County Employee

Employee or Former Employee Name Title

Name of Related Person Title Relationship

Section D: No Known Relationships

If no relationships in accordance with the above exist or are known to exist, provide a written explanation below:

N/A

Attach additional pages if necessary.

I, the undersigned, hereby certify that the information provided is true and complete to the best of my knowledge.

Asphalt Inc. LLC, dba Lone Star Paving Company
Name of Vendor

Signature of Certifying Official

Vice President
Title of Certifying Official

Alex Flores
Printed Name of Certifying Official

12-21-2021
Date

[1]A degree of relationship is determined under Texas Government Code Chapter 573. (as outlined below)

Relationship of Consanguinity				
	1st Degree	2nd Degree	3rd Degree*	4th Degree*
Person	child or parent	grandchild, sister, brother or grand-parent	great-grandchild, niece, nephew, aunt,* uncle* or great-grandparent	great-great-grandchild, grandniece, grandnephew, first cousin, great aunt,* great uncle* or great-great-grandparent
* An aunt, uncle, great aunt or great uncle is related to a person by consanguinity only if he or she is the sibling of the person's parent or grandparent.				

Relationship of Affinity		
	1st Degree	2nd Degree
Person	spouse, mother-in-law, father-in-law, son-in-law, daughter-in-law, stepson, stepdaughter, stepmother or stepfather	brother-in-law, sister-in-law, spouse's grandparent, spouse's grandchild, grandchild's spouse or spouse of grandparent

"Vendor" shall mean any individuals or entity that seeks to enter into a contract with Hays County.

"Employs" shall mean any relationship wherein Vendor has made arrangements to compensate an individual, directly or by way of a business organization in which the individual has a sharehold or ownership interest, even if that arrangement is contractual and/or on an hourly-charge basis.

XV. Federal Affirmations and Solicitation Acceptance

In the event federal funds are used for payment of part or all of the consideration due under any contract resulting from this Solicitation Response, Respondent must execute this Federal Affirmation and Solicitation Acceptance, which shall constitute an agreement, without exception, to the following affirmations:

1. **Debarment and Suspension**
   Respondent certifies, by signing this Attachment, that neither it nor any of its principals or subcontractors are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency. This certification is made pursuant to the OMB guidelines at 2 CFR 180 that implement Executive Order 12549 (3 C.F.R. Part 1986 Comp., p. 189) and 12689 (3 C.F.R. Part 1989 Comp., p. 235), Debarment and Suspension, 28 C.F.R. pt. 67, § 67.510, as published as pt. VII of the May 26, 1988, Federal Register (pp. 19160-19211), and any relevant program-specific regulations. This provision shall be required of every subcontractor receiving any payment in whole or in part from federal funds.

2. **Americans with Disabilities Act**
   Respondent and any potential subcontractors shall comply with all terms, conditions, and requirements of the Americans with Disabilities Act of 1990 (P.L. 101-136), 42 U.S.C. 12101, as amended, and regulations adopted thereunder contained in 28 C.F.R. 26.101-36.999, inclusive, and any relevant program- specific regulations.

3. **Discrimination**
   Respondent and any potential subcontractors shall comply with all Federal statutes relating to nondiscrimination. These include, but are not limited to:
   a. Title VI of the Civil Rights Act of 1964 (P.L. 88-352), which prohibits discrimination on the basis of race, color, or national origin;
   b. Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex;
   c. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps;
   d. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101- 6107), which prohibits discrimination on the basis of age;
   e. The Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse;
   f. The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism;
   g. Sections 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records;
   h. Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental, or financing of housing;
   i. Any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and
   j. The requirements of any other nondiscrimination statute(s) that may apply to the application.

4. **Equal Employment Opportunity**
   Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

5. **Wages**

Under the Davis Bacon Act, 40 U.S.C. 276a – 276a-5, as amended, and the regulations adopted thereunder contained in 29 C.F.R. pt. 1 and 5. When required by Federal program legislation, all prime construction contracts in excess of $2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). Respondent and any potential subcontractors have a duty to and shall pay the prevailing wage rate specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

6. **Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708)**
Where applicable, all contracts awarded by the non-Federal entity in excess of $100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

7. Contracts for more than the simplified acquisition threshold currently set at $150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

8. All contracts in excess of $10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be affected and the basis for settlement.

9. **Lobbying**
If Respondent, in connection with any resulting contract from this Solicitation, is a recipient of a Federal contract, grant, or cooperative agreement exceeding $100,000 or a Federal loan or loan guarantee exceeding $150,000, the Contractor shall comply with the requirements of the new restrictions on lobbying contained in Section 1352, Title 31 of the U.S. Code, which are implemented in 15 CFR Part 28. Respondent shall require that the certification language of Section 1352, Title 31 of the U.S. Code be included in the award documents for all subcontracts and require that all subcontractors submit certification and disclosure forms accordingly. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

10. **Rights to Inventions Made Under a Contract or Agreement**
If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

11. **Minority and Women's Businesses**

Respondent and any potential subcontractors shall take affirmative steps to assure that minority and women's businesses are utilized when possible as sources of supplies, equipment, construction, and services, as detailed in the federal requirements relating to minority and women's business enterprises: Executive Order 11625 of October 13, 1971, 36 Fed. Reg. 19967, as amended by Executive Order No. 12007 of August 22, 1977, 42 Fed. Reg. 42839; Executive Order No. 12432 of July 14, 1983, 48 Fed. Reg., 32551; and Executive Order No. 12138 of May 18, 1979, 44 Fed. Reg. 29637.

12. **Environmental Standards**

Respondent and any potential subcontractors shall comply with environmental standards that may be prescribed pursuant to the following:

a Institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514;

b Notification of violating facilities pursuant to EO 11738;

c Protection of wetlands pursuant to EO 11990;

d Evaluation of flood hazards in floodplains in accordance with EO 11988;

e Assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.);

f Conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C.§§7401 et seq.);

g Contracts and subgrants of amounts in excess of $150,000 must contain a provision that requires the non- Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

h Protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and

i Protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).

j Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201).

k A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded

- $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

13. **Historic Properties**

Respondent and any potential subcontractors shall assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).

14. **All Other Federal Laws**

Respondent and any potential subcontractors shall comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing the Solicitation.

I have read, understand, and agree to comply with the Federal Affirmations specified above. Checking "YES" indicates acceptance, while checking "NO" denotes non-acceptance.

YES ✓ NO _____

Authorized Signature: _____

Printed Name and Title: Alex Flores Vice President

Respondent's Tax ID: 47-2248769 Telephone: 214-926-9104

If Respondent is a Corporation or other legal entity, please attach a corporate resolution or other appropriate official documentation that states that the person signing this Solicitation Response is an authorized person to sign for and legally bind the corporation or entity.

XVI. FHWA 1273 Certification

I have read, understand, and agree to comply with the FHWA 1273 presented in Attachment B. Checking "YES" indicates acceptance, while checking "NO" denotes non-acceptance.

YES ✓ NO _____

Authorized Signature: [signature]

Printed Name and Title: Alex Flores Vice President

Respondent's Tax ID: 47-2248769 Telephone: 214-926-9104

If Respondent is a Corporation or other legal entity, please attach a corporate resolution or other appropriate official documentation that states that the person signing this Solicitation Response is an authorized person to sign for and legally bind the corporation or entity.

OFFICE OF THE COUNTY AUDITOR

Hays County Purchasing
712 S. Stagecoach Trail, Ste. 1071
San Marcos, Texas 78666
512-393-2283

Marisol Villarreal-Alonzo, CPA
County Auditor
marisol.alonzo@co.hays.tx.us

Vickie G. Dorsett
Assistant County Auditor
vickie.dorsett@co.hays.tx.us

December 13, 2021

ADDENDUM #1
IFB 2022-B07 Road Building Materials – Hot Mix Thin Overlay

Please find attached Addendum #1 to **IFB 2022-B07 Road Building Materials – Hot Mix Thin Overlay.**

Included in this addendum:

- Extended Question Deadline:
  - Original Deadline: December 8, 2021 @ 5:00 PM (CST)
  - New Deadline: December 20, 2021 @ 5:00 PM (CST)
- Extended Bid Deadline:
  - Original Deadline: December 21, 2021 @ 1:00 PM (CST)
  - New Deadline: December 30, 2021 @ 1:00 PM (CST)

Acknowledge receipt of this addendum by signing and returning this page with your proposal.

Signature

Asphalt Inc. LLC, dba Lone Star Paving Co. 12-21-2021
Company Name Date

OFFICE OF THE COUNTY AUDITOR

Hays County Purchasing
712 S. Stagecoach Trail, Ste. 1071
San Marcos, Texas 78666
512-393-2283

Marisol Villarreal-Alonzo, CPA
County Auditor
marisol.alonzo@co.hays.tx.us

Vickie G. Dorsett
Assistant County Auditor
vickie.dorsett@co.hays.tx.us

December 22, 2021

ADDENDUM #2
IFB 2022-B07 Road Building Materials – Hot Mix Thin Overlay

Questions & Answers:

1. Do you know how many callouts for the Thin Overlay can be expected?
   - *Less than 10 a year*
2. How many days worth of paving will the 1000 tons be divided up into?
   - *It depends on the job and location; an estimate would be approximately 3 days.*

Acknowledge receipt of this addendum by signing and returning this page with your proposal.

Signature

Asphalt Inc. LLC dba Lone Star Paving Company 12/23/21

Company Name Date

SOLICITATION, OFFER AND AWARD

Hays County Auditor
Purchasing Office
712 S. Stagecoach Trail, Suite 1071
San Marcos, Texas 78666

Solicitation No.: IFB 2022-B07 Road Building Materials – Hot Mix Thin Overlay	Date Issued: November 30, 2021

SOLICITATION

Respondents must submit proposals as listed: One (1) original and one (1) digital copy on a thumb drive at the Hays County Purchasing Office at the address shown above or Electronically through BidNet Direct and one (1) hard copy at the Hays County Purchasing Office at the address shown above until:

1:00 p.m. local time December 21, 2021.

Proposals received after the time and date set for submission will be returned unopened.

For information please email: purchasing@co.hays.tx.us	Questions concerning this RFP must be received in writing no later than 5:00 on December 8, 2021	Phone No.: (512) 393-2283

OFFER (Must be fully completed by Respondent)

In compliance with the above, the undersigned offers and agrees to furnish all items or services awarded at the prices stipulated for each item delivered at the designated point(s) and within the time specified herein. Award shall include all solicitation documents and attachments.

MANUALLY SIGN ALL COPIES SUBMITTED. SIGNATURE IS MANDATORY.

Respondent		Respondent's Authorized Representative	
Entity Name:	Colorado Materials, LTD.	Name:	Brandon Cravens
Mailing Address:	P.O. Box 2109 San Marcos, TX 78667	Title:	Sales Rep.
		Email Address:	Brandon@huntersinc.com
		Phone No.:	(512)396-1555
Signature:		Date:	12/22/21
Name, Email Address and Phone No. of person authorized to conduct negotiations on behalf of Respondent:	Brandon Cravens (512)396-1555 Brandon@Huntersinc.com		

NOTICE OF AWARD (To be completed by County)

Funding Source:	Awarded as to item(s):	Contract Amount:
	Primary vendor on all items	per bid sheet
Vendor: Colorado Materials LTD.		Term of Contract: 1 year w/ (4) 1-yr renewals
This contract issued pursuant to award made by Commissioners Court on:	Date: January 18, 2022	Agenda Item:

Important: Award notice may be made on this form or by other Authorized official written notice.

_____ Hays County Judge — Date _____

_____ Hays County Clerk — Date _____

In compliance with the Invitation for Bid, the undersigned Bidder having examined the Specifications, and being familiar with the conditions to be met, hereby submits the following Bid for furnishing the material, equipment, labor and everything necessary for providing the items listed below and agrees to deliver said items as requested for the prices set forth on this form. A bid will be subject to being considered irregular and may be rejected if it shows omissions, alterations of form, conditional alternate bids, additions or alternates in lieu of the items specified, if the unit prices are obviously unbalanced (either in excess of or below reasonably expected values), or irregularities of any kind. **Quantities listed are approximations of annual needs and will be used for the comparison of bids.** Individual orders and payments will be made in accordance with the contract.

Contract Item Number	Item Number	Description	Estimated Quantity (+/-)	Unit of Measure	Bid Price Per Unit (PICKUP)	Bid Price Per Unit (DELIVERED)
B07.1	TXDOT Item 347 Thin Overlay Mixtures (TOM)	Type C	1,000	tons	125.00	125.00
B07.2	TXDOT Item 347 Thin Overlay Mixtures (TOM)	Type F	1,000	tons	125.00	125.00

Contract Item Number	Description	Estimated Quantity (+/-)	Unit of Measure	Bid Price Per Unit
B07.3	Material Transportation Service (per mile per ton)	VARIES	miles	.50
B07.4	Demurrage Charge (per hour)	1	hour	100.00

Delivery days after receipt of order: 3 Minimum load for delivery: 25 TONS

Plant Location: 5080 FM 2439, NEW BRAUNFELS, TX 78132 Contact name and phone at plant: BRANDON (512) 396-1555

The undersigned affirms that they are duly authorized to execute a contract, that this Bid has not been prepared in collusion with any other Respondent, nor any employee of Hays County, and that the contents of this Bid have not been communicated to any other Respondent or to any employee of Hays County prior to the official opening.

Signature of Authorized Representative:

Printed Name: Brandon Espinosa Date: 12/21/21

Company Name: Colorado Materials, LTD

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Attachment A: IFB 2022-B07 Bid Form

Attachment B: FHWA 1273

I. IFB Submittal Checklist

This checklist is provided for the Vendor's convenience and identifies the documents that MUST be submitted for the bid/proposal to be considered responsive, as well as the required forms requested by Hays County.

A COMPLETE SOLICITATION RESPONSE PACKAGE INCLUDES:

The following forms MUST be returned for the bid/proposal to be considered responsive:

✓ 1. Solicitation, Offer and Award Form completed and signed

✓ 2. Mandatory Bid Form: Attachment A

✓ 3. Vendor Reference Form

Required Forms by Hays County:

✓ 1. Conflict of Interest Questionnaire completed and signed

✓ 2. Code of Ethics signed

✓ 3. HUB Practices signed

✓ 4. House Bill 89 Verification signed and notarized

✓ 5. Senate Bill 252 Certification

✓ 6. Debarment & Licensing Certification signed and notarized

✓ 7. Vendor/Bidder's Affirmation completed and signed

✓ 8. Related Party Disclosure Form

✓ 9. Federal Affirmations and Solicitation Acceptance

✓ 10. FHWA 1273 Certification

✓ 11. System for Award Management (www.SAM.gov) Entity Registration Page

✓ 12. Any addenda applicable to this solicitation

Hays County will accept bids, by the stated due date by one of the following methods:

✓ 1. Electronic Submission of Bid Packet through BidNet Direct one (1) hard copy or

____ 2. One original of the proposal and a digital copy on a thumb drive in a sealed envelope with the Solicitation Number and Vendor's Name on the outermost envelope, addressed to:

Hays County Purchasing
712 S Stagecoach Trail, Suite 1071
San Marcos, TX 78666

II. Summary

1. Type of Solicitation:	Invitation for Bid (IFB)
2. Solicitation Number:	IFB 2022-B07 Road Building Materials – Hot Mix Thin Overlay
3. Issuing Office:	Hays County Auditor Purchasing Office 712 S. Stagecoach Trial, Suite 1071 San Marcos, TX 78666
4. Responses to Solicitation:	Sealed proposals marked with Solicitation Number and Respondent Name on the outermost envelope One (1) original and one (1) digital copy on a thumb drive Electronic Bid Packets can be submitted through BidNet Direct and one (1) Hard Copy delivered to Hays County Purchasing
5. Deadline for Responses:	In issuing office no later than: **Tuesday, December 21, 2021; 1:00 PM, Central Time (CT)**
6. Pre-Bid Meeting:	none
7. Bonding Requirements:	none
8. Initial Contract Term:	January 2022 - December 2022
9. Optional Contract Terms:	Four (4) optional one (1) year terms
10. Designated Contact:	Hays County Purchasing Email: purchasing@co.hays.tx.us
11. Questions & Answers:	Questions regarding this solicitation must be made in writing and submitted to the designated contact above no later than December 8, 2021; 5:00 p.m. CT. Telephone inquiries will not be accepted. Questions may be submitted by email to the address above. Answers to questions will be provided in the form of an addendum posted on CivicPlus and ESBD websites for the benefit of all potential respondents. The County reserves the right to contact the person submitting a question to clarify the question received, if necessary. Each clarification, supplement, or addenda to this RFP, if any, will be posted on the CivicPlus, BidNet Direct and ESBD websites. All potential or actual respondents are responsible for monitoring the websites for such materials. Respondents are deemed to have notice of, and are required to comply with, any such material posted in accordance with this paragraph.

Respondents should not rely upon any other sources of written or oral responses to inquiries.

12. Addenda

Any interpretations, corrections or changes to this IFB and specifications will be made by addenda. Sole issuing authority of addenda shall be vested in the Hays County Purchasing Office. It is the Respondent's responsibility to acknowledge receipt of all addenda with bid submission.

13. Contact with County Staff:

Upon issuance of this solicitation, employees and representatives of Hays County, other than the Purchasing Office staff identified as the Designated Contact above, will not discuss the contents of this solicitation with any Respondent or its representatives. Failure of a Respondent or any of its representatives to observe this restriction may result in disqualification of any related offer. This restriction does not preclude discussions between affected parties for the purpose of conducting business unrelated to this procurement.

Anticipated Schedule of Events

November 30, 2021	Issuance of RFP
December 8, 2021	Deadline for Submission of Questions (5:00 PM CT)
December 21, 2021	Deadline for Submission of Bids (1:00 PM CT) **Late bids will not be accepted.**
January 2022	Anticipated contract award date

III. Specifications

A. Introduction

Hays County issues this Invitation for Bid (IFB) to solicit bids for annual contracts for furnishing the materials set forth in this bid invitation. These materials are generally used by the Hays County Transportation Department for road maintenance and construction projects.

B. Materials Requirements

All materials listed shall meet the applicable specifications for the item, class, and type as identified on the bid form (see Attachment A: IFB 2022-B07 Bid Form). For items identified with a "TXDOT Item" number, refer to the Texas Department of Transportation Standard Specifications for Construction and Maintenance of Highways, Streets, and Bridges (adopted November 1, 2014).

Hays County reserves the right to refuse or reject any materials that do not meet the requirements of the specifications. Any materials refused or rejected based on non-conformance with the specifications shall be removed at no cost to the County.

C. Qualifications

RESPONSIBILTY: A prospective bidder must affirmatively demonstrate bidder's responsibility. A prospective bidder must meet the following requirements:

- Have adequate financial resources, or the ability to obtain such resources as required
- Be able to comply with required or proposed delivery schedule
- Have a satisfactory record of performance
- Be otherwise qualified and eligible to receive an award
- Have the proper equipment to fulfill the terms and conditions of this contract such as proper equipment for weighing materials, loading materials, delivering materials, etc.

COMPLIANCE WITH LAWS: The successful bidder shall comply with all applicable federal, state and local laws and regulations pertaining to the practice of the profession and the execution of the duties under the bid.

INSURANCE: The successful bidder will be required to furnish proof of insurance for Workers' Compensation, Auto Liability and General Liability before any work may begin.

TIME OF PERFORMANCE: It is imperative that the prospective respondent respond to County requests in a timely manner and comply with required or proposed delivery schedules. Please describe how you intend to respond to and track County requests.

SYSTEM FOR AWARD MANAGEMENT: Respondent and its Principals may not be debarred or suspended nor otherwise on the Excluded Parties List System (EPLS) in the System for Award Management (SAM). Include verification that the company as well as the company's principals are not listed (are not debarred) through the System for Award Management (www.SAM.gov). Enclose a printout of the search results that includes the record December 10, 2021.

It is the practice of Hays County to encourage local participation and to promote and encourage contracting and subcontracting opportunities for locally owned businesses and labor in all contracts.

The County of Hays does not discriminate on the basis of race, color, national origin, sex, religion, age and disability in employment or the provision of services.

D. Mandatory Bid Form

Respondent must provide its total bid amount by completing the mandatory bid form included as Attachment A: IFB 2022-B07 Bid Form. Pricing for materials shall be bid for pickup by Hays County at the bidder's plant and for delivery to Hays County jobsites. Because jobsite locations are variable, bids are also requested for Material Transportation Services on a per mile basis. Refer to the following example for calculating the price of materials delivered to a Hays County jobsite: Hays County is exempt from federal excise and state sales tax; therefore, tax must not be included in this bid.

Vendor A submits a bid for Item B07.1 (Hot Mix Type C) for $50 per ton delivered and a bid for Item B03.11 (Material Transportation Service) for $0.35 per mile. An order for 100 tons to be delivered to a jobsite which is 45 miles from the plant location would be calculated as follows:

$$(unit\ price\ x\ quantity) + (cost\ per\ mile\ x\ miles\ from\ plant\ to\ jobsite\ x\ quantity) = total\ cost$$

$$(\$50.00\ x\ 100\ tons) + (\$0.35\ x\ 45\ miles\ x\ 100\ tons) = \$6{,}575.00$$

If a bid for Material Transportation Service is not provided in addition to a bid for materials to be delivered, the bid for materials to be delivered will be considered non-responsive.

ESTIMATED QUANTITIES: Quantities listed on the bid form are approximations of annual needs and will be used for the comparison of bids. Individual orders and payments will be made in accordance with the contract. Hays County is not obligated to purchase any minimum amount, and the County may purchase any reasonable amount greater than the estimate for the same unit price. Any limit on quantities available must be stated expressly in the bid.

E. Submittal Requirements

Respondent must deliver the following to the Issuing Office by the specified deadline or upload the proposal electronically to BidNet Direct:

- Mailed or Dropped off Proposals: All items must be in a sealed envelope marked with the Solicitation Number and Respondent Name on the outermost envelope.
  - One (1) original proposal with required forms manually signed by Respondent with original signatures
  - One (1) digital copy of the full proposal with all required forms on a thumb drive
- Electronic Proposals: One of the items below MUST be received by the due date & time
  - Upload proposal with required forms manually signed by Respondent
  - Purchasing Department MUST also receive a hard copy of the proposal

LATE SUBMITTALS WILL NOT BE ACCEPTED.

Submittals may be withdrawn at any time prior to the official opening. After the official opening, submittals may not be amended, altered or withdrawn without the recommendation of the County Purchasing Office and the approval of Commissioners Court. Submittals will be publicly opened at the Office of the Hays County Auditor upon the deadline for submittal. Respondents, their representatives and interested persons may be present. It is understood that Hays County reserves the right to accept or reject any and all submittals as it shall deem to be in the best interest of Hays County.

ALTERING PROPOSALS: Any interlineations, alteration, or erasure made before receiving time must be initialed by the signer of the proposal, guaranteeing authenticity.

FORMS: Changes to forms herein, made by respondents, shall disqualify the respondent. Proposals cannot be altered or amended after submission deadline.

REFERENCES: Hays County requires respondent to supply a list of at least three (3) references (See Section V for Vendor Reference Form) where like services have been supplied by their company. Include name of company, address, telephone number and name of representative.

F. Award of Contract

BASIS OF AWARD: The County reserves the right to award a contract to a bidder on the basis of unit price low bid and/or the best value for the County. The County reserves the right to accept in part or in whole any bids submitted and waive any technicalities for the best interest of the County.

The bid award shall be based on but not necessarily limited to, the following factors:

- Unit pricing
- Special needs and requirements of Hays County
- Vendors past performance record with Hays County
- Hays County's evaluation of vendor's ability to perform
- Vendor's references

CONTRACT: This bid, when properly accepted by Hays County shall constitute a contract equally binding between the successful bidder and Hays County. No negotiations, decisions, or actions shall be initiated or executed by any vendor as a result of any discussions with any County employee. Only those communications that are in writing from the Purchasing Manager shall be considered as a duly authorized expression on behalf of the County. No oral agreements either expressed or implied will be considered in fulfilling this contract. No additional terms will become part of this contract with the exception of Commissioners Court approved change orders.

BIDDER AGREES, if this bid is accepted, to furnish any and all services upon which prices are offered, at the price(s) and upon the terms and conditions contained in the specifications. The period for acceptance of the bid will be sixty (60) calendar days.

The successful bidder expressly warrants that all services specified in the IFB will be performed with care and diligence and in accordance with all specifications of the IFB. The successful bidder agrees to correct any deficiencies in its performance of services upon notification by the County and without additional expense to the County.

MULTIPLE AWARDS can be made. Determination of source to provide materials for specific jobsites will be made by the Hays County Transportation Department. The County reserves the right to purchase materials from another supplier if the lowest bidder cannot fill an order when needed.

G. Contract Term & Price Redetermination

The term of this contract will begin on the date of award by the Hays County Commissioners Court and will be in effect for a year. Hays County reserves the right to extend this contract annually for a maximum of four (4) additional one (1) year periods.

Bid pricing shall be firm for the entire term of the awarded contract. Prices established in continuing agreements and annual term contracts may be raised due to inflation and increased operating costs. Any price increase proposed must be submitted forty-five (45) calendar days prior to the anniversary date of the annual term contract and shall be supported with proper documentation, as provided by the U.S. Department of Labor – Bureau of Labor and Statistics, Producer Price Index (PPI), for the most current data representing a 12-month period at the time of consideration. Hays County will have fifteen (15) days, from the receipt of proposed price increases, to review any proposed price increases and reserves the right to approve or disapprove any request for increased prices. If Hays County disapproves the proposed price increases, the County will issue an intent to terminate, and the contract will not be renewed.

H. Invoicing

Invoices shall be sent directly to the Hays County Auditor, 712 S. Stagecoach Trail, Suite 1071, San Marcos, TX 78666 and attention: Accounts Payable. Payments will be processed after notification that all materials have been received satisfactorily and no unauthorized materials have been received. To expedite payment and ensure compliance with this contract, all invoices shall refer to the Contract Item Number (ex. B07.1) associated with the materials as listed on the bid form.

I. Warranty of Performance

The successful respondent expressly warrants that all services specified in the IFB will be performed with care and diligence and in accordance with all specifications of the IFB. The successful bidder agrees to correct any deficiencies in performance of services upon notification by the County and without additional expense to the County.

CONTINUING NON-PERFORMANCE of the bidder, in terms of specifications, shall be basis for the termination of the contract by the County. The County shall not pay for merchandise/services that are unsatisfactory. Failure to perform any provision will constitute a default of contract, in which case, corrective action shall take place within ten (10) days from the date of written notice citing the nature of breach. Failure to take corrective action or to provide a satisfactory written reply excusing such failure within the prescribed ten (10) days will authorize the County to terminate this agreement by written notice.

COMPLIANCE WITH LAWS: The successful Respondents shall comply with all applicable federal, state and local laws and regulations pertaining to the practice of the profession and the execution of the duties under the solicitation. Any contract executed as a result of this IFB shall be governed by the laws of the State of Texas.

IV. General Terms and Conditions for Solicitations Applicable To: Invitations for Bid (IFB)

1. GENERAL DEFINITIONS:
    a. "Auditor" means the Hays County Auditor or his/her designee.
    b. "Commissioners Court" means Hays County Commissioners Court.
    c. "Contract" means the contract awarded pursuant to the IFB.
    d. "Contractor" means a person or firm receiving an award of contract from Commissioners Court.
    e. "County" means Hays County, Texas, a political subdivision of the State of Texas.
    f. "County Building" means any County owned buildings and does not include buildings leased by County.
    g. "Is doing business" and "has done business" mean:
        i. Paying or receiving in any calendar year any money or other valuable thing which is worth more than $250 in the aggregate in exchange for personal services or for purchase of any property or property interest, either real or personal, either legal or equitable; or
        ii. Loaning or receiving a loan of money; or goods or otherwise creating or having in existence any legal obligation or debt with a value of more than $250 in the aggregate in a calendar year;
        iii. But does not include any retail transaction for goods or services sold to a Key Contracting Person at a posted, published, or marked price available to the general public.
    h. "Purchasing Manager" means the Hays County Purchasing Manager.
    i. "Sub-contractor" means a person or firm doing business with a Contractor.

2. FUNDING: Funds for payment on this Contract have been provided through the County budget approved by Commissioners Court for this fiscal year only. State of Texas statutes prohibit the obligations and expenditure of public funds beyond the fiscal year for which a budget has been approved. However, the cost of items or services covered by this Contract is considered a recurring requirement and is included as a standard and routine expense of Hays County to be included in each proposed budget within the foreseeable future. County Commissioners expect this to be an integral part of future budgets to be approved during the period of this Contract except for unanticipated needs or events which may prevent such payments against this Contract. However, County cannot guarantee the availability of funds, and enters into this Contract only to the extent such funds are made available. The Fiscal Year for County extends from October 1st of each calendar year to September 30th of the next calendar year.

3. FUNDING OUT: Despite anything to the contrary in this Contract, if, during budget planning and adoption, Commissioners Court fails to provide funding for this Contract for the following fiscal year of County, County may terminate this Contract after giving Contractor thirty (30) calendar days written notice that this Contract is terminated due to the failure to fund it.

4. INVOICING/PAYMENTS:
    a. Contractor shall provide County with an Internal Revenue Form W-9, Request for Taxpayer Identification Number and Certification, that is completed in compliance with the Internal Revenue Code and its rules and regulations before any Contract funds are payable.
    b. As a minimum, invoices shall include: (i) name, address, and telephone number of Contractor and similar information in the event payment is to be made to a different address; (ii) County Contract or Purchase Order number; (iii) identification of products or services as outlined in this Contract; (iv) quantity or quantities, applicable unit prices, total prices, and total amount; and (v) any additional payment information called for by this Contract. County will not pay invoices that are in excess of the amount authorized by the purchase order.
    c. Payment shall be made by check or warrant by County upon satisfactory delivery and acceptance of products and services and submission of an invoice to the address below:
    Hays County Auditor
    Attention: Accounts Payable
    712 S Stagecoach Trail, Suite 1071

San Marcos, Texas 78666

d. Payment shall be deemed to have been made on the date of mailing of the check or warrant. For purposes of payment discounts, time will begin upon satisfactory delivery of products and services and/or submission of acceptable invoice, whichever is last. Partial payments will not be made unless specifically requested and approved by County prior to Contract award.
e. Accrual and payment of interest on overdue payments shall be governed by Tex. Gov't Code Ann., ch. 2251.

5. COUNTY TAXES: If the Contractor subsequently becomes delinquent in the payment of County taxes, it will be grounds for cancellation of the contract. Despite anything to the contrary, if the contractor is delinquent in payment of County property taxes at the time of invoicing, Contractor assigns any payments to be made for performance under this contract to the County Tax Assessor-Collector for the payment of delinquent taxes.

6. PROMPT PAYMENT ACT: TEX. GOV'T CODE ANN., ch 2251 (Vernon Supp. 1995) requires that payments be made within 30 calendar days. If County fails to pay within 30 days, interest on overdue amounts is subject to Chapter 2251, Texas Government Code. The law does not apply if the terms of a federal grant, contract, regulation, or statute prevent local governments from making timely payments with federal funds. Contractors and subcontractors must pay their suppliers interest if the supplier is not paid within 10 calendar days after the contractor or subcontractor receives payment. Contractors must apply for interest payments within 6 months of submitting a proper invoice if they believe such interest was due but not paid. Interest begins accruing 30 days after either of the following, whichever is later; (i) satisfactory delivery or performance has been completed, or, (ii) a correct invoice is received at the designated place.

7. FOB POINT: Delivery of all products under this contract, if any, shall be made Free on Board to final destination, at the address shown in this contract or as indicated on each Purchase Order placed against this contract. The title and risk of loss of the goods shall not pass to County until acceptance takes place at the F.O.B. point.

8. INSPECTION AND ACCEPTANCE: The County office or department receiving items pursuant to this contract shall inspect and accept only those items that are satisfactory to them, and reject those items which are damaged or which do not conform to specifications. Contractor shall be responsible for the proper labeling, packing, and delivery to final destination, including replacement of rejected deliveries.

9. VARIATION IN QUANTITY: No variation in the quantity of any item called for by this contract will be accepted unless such variation has been caused by conditions of loading, shipping, or packing, or allowances in manufacturing processes, and then only to the extent, if any, specified elsewhere in this contract.

10. OFFICIALS NOT TO BENEFIT: If a member of Commissioners Court belongs to a cooperative association, the County may purchase equipment or supplies from the association only if no member of the Commissioners Court will receive a pecuniary benefit from the purchase, other than as reflected in an increase in dividends distributed generally to members of the association.

11. NONDISCRIMINATION; CIVIL RIGHTS/ADA COMPLIANCE:
    a. Contractor shall not engage in employment practices that have the effect of discriminating against employees or prospective employees because of age, race, color, sex, creed, national origin or handicapped condition.
    b. Contractor shall provide all services and activities required in a manner that would comply with the Civil Rights Act of 1964, as amended, the Rehabilitation Act of 1973, Public Law 93-1122, Section 504, and with the provisions of the Americans with Disabilities Act of 1990, Public Law 101-336 [S.933] if Contractor were an entity bound to comply with these laws.

12. CHANGES:

a. This Contract may be amended only by written instrument signed by both County and Contractor. It is acknowledged by Contractor that NO OFFICIAL, EMPLOYEE, AGENT OR REPRESENTATIVE OF COUNTY HAS ANY AUTHORITY, EITHER EXPRESS OR IMPLIED, TO CHANGE THE SCOPE OF THIS CONTRACT OR OTHERWISE AMEND THIS CONTRACT, OR ANY ATTACHMENTS HERETO, UNLESS EXPRESSLY GRANTED THAT AUTHORITY BY THE COMMISSIONERS COURT.
b. Contractor shall submit all requests for changes to this Contract or any attachment(s) to it to the Purchasing Manager. The Purchasing Manager shall present Contractor's requests to Commissioners Court for consideration.

13. REPRESENTATIONS:
a. Contractor represents that he has thoroughly examined the drawings, specifications, schedule, instructions and all other contract documents. Contractor has made all investigations necessary to be thoroughly informed regarding plant and facilities for delivery of material, equipment and/or services as required by the proposal conditions.
b. The Contractor's delivery time includes weekends and holidays.
c. Contractor certifies that he is a qualified, bondable business entity that he is not in receivership or contemplates it, and has not filed for bankruptcy. He further certifies that the Company, Corporation, Partnership, or Sole Proprietorship is not delinquent with respect to payment of County property taxes.
d. Contractor warrants that all applicable patents and copyrights which may exist on items that will be supplied under the contract have been adhered to and further warrants that County shall not be liable for any infringement of those rights. Warranties granted County shall apply for the duration of this contract or for the life of equipment or supplies purchased, whichever is longer. County must not extend use of the granted exclusive rights to any other than County employees or those with whom County has established a relationship aimed at furthering the public interest, and then only for official public uses. County will not knowingly or intentionally violate any applicable patent, license, or copyright. Contractor must indemnify County, its officers, agents, and employees against all claims, suits, and liability of every kind, including all expenses of litigation, court costs, and attorney's fees arising in connection with any alleged or actual infringement of existing patents, licenses or copyrights applicable to items sold.
e. The Contractor warrants that upon execution of a contract with the County, he will not engage in employment practices which have the effect of discriminating against employees or prospective employees because of age, religion, race, color, sex, creed, handicap, or national origin and will submit reports as the County may require to assure compliance.
f. Contractor warrants to County that all items delivered and all services rendered will conform to the specifications, drawings, or other descriptions furnished or incorporated by reference, and will be of merchantable quality, good workmanship, and free from defects. Contractor further agrees to provide copies of applicable warranties or guarantees to the Purchasing Manager. Copies will be provided within 10 days after the Notice of Award is issued. Return of merchandise under warranty shall be at Contractor's expense.

14. SUBCONTRACTS:
a. Contractor shall not enter into any subcontracts for any service or activity relating to the performance of this Contract without the prior written approval or the prior written waiver of this right of approval from County. IT IS ACKNOWLEDGED BY CONTRACTOR THAT NO OFFICER, AGENT, EMPLOYEE OR REPRESENTATIVE OF COUNTY HAS THE AUTHORITY TO GRANT SUCH APPROVAL OR WAIVER UNLESS EXPRESSLY GRANTED THAT SPECIFIC AUTHORITY BY THE COMMISSIONERS COURT.
b. If a subcontract is approved, Contractor must make a "good faith" effort to take all necessary and reasonable steps to insure HUBs maximum opportunity to be subcontractors under this Contract. Contractor must obtain County approval of all proposed HUB subcontractors through the Purchasing Manager. Failure by Contractor to make a good faith effort to employ HUBs as subcontractors constitutes a breach of this Contract and may result in termination of this Contract.

15. ASSIGNMENT:
    a. The parties to this Contract shall not assign any of the rights or obligation hereunder without the prior written consent of the other party. No official, employee, representative or agent of County has the authority to approve any assignment under this Contract unless that specific authority is expressly granted by Commissioners Court.
    b. The terms, provisions, covenants, obligations and conditions of this Contract are binding upon and inure to the benefit of the successors in interest and the assigns of the parties to this Contract if the assignment or transfer is made in compliance with the provisions of this Contract.
    c. Contractor remains responsible for the performance of this Contract when there is a change of name or change of ownership. If a change of name is required, the Purchasing Manager shall be notified immediately. No change in the obligation of or to Contractor will be recognized until it is approved by Commissioners Court.

16. DISPUTES AND APPEALS: The Purchasing Manager acts as the County representative in the issuance and administration of this contract in relation to disputes. Any document, notice, or correspondence not issued by or to the Purchasing Manager or other authorized County person, in relation to disputes is void unless otherwise stated in this contract. If the Contractor does not agree with any document, notice, or correspondence issued by the Purchasing Manager, or other authorized County person, the Contractor must submit a written notice to the Purchasing Manager within ten (10) calendar days after receipt of the document, notice, or correspondence, outlining the exact point of disagreement in detail. If the matter is not resolved to the Contractor's satisfaction, Contractor may submit a written Notice of Appeal to the Commissioners Court, through the Purchasing Manager, if the Notice is submitted within ten (10) calendar days after receipt of the unsatisfactory reply. Contractor then has the right to be heard by Commissioners Court.

17. MEDIATION: When mediation is acceptable to both parties in resolving a dispute arising under this Agreement, the parties agree to use a mutually agreed upon mediator, or a person appointed by a court of competent jurisdiction, for mediation as described in Section 154.023 of the Texas Civil Practice and Remedies Code. Unless both parties are satisfied with the result of the mediation, the mediation will not constitute a final and binding resolution of the dispute. All communications within the scope of the mediation shall remain confidential as described in §154.073 of the Texas Civil Practice and Remedies Code, unless both parties agree, in writing, to waive the confidentiality.

18. FORCE MAJEURE: If the performance by either party of any of its obligations under this Contract is interrupted or delayed due to an act of God or the common enemy or as the result of war, riot, civil commotion, sovereign conduct, or the act or conduct of any person or persons not a party to this Contract, then it shall be excused from performance for such period of time as is reasonably necessary to remedy the effects thereof.

19. NON-WAIVER OF DEFAULT:
    a. No payment, act or omission by County may constitute or be construed as a waiver of any breach or default of Contractor which then exists or may subsequently exist. No official, agent, employee or representative of County may waive any breach of any term or condition of this Contract unless expressly granted that specific authority by the Commissioners Court.
    b. All rights of County under this Contract are specifically reserved and any payment, act or omission shall not impair or prejudice any remedy or fight to County under it. Any right or remedy in this Contract shall not preclude the exercise of any other right or remedy under this Contract or under any law, nor shall any action taken in the exercise of any right or remedy be deemed a waiver of any other rights or remedies.

20. TERMINATION FOR DEFAULT: Failure by either County or Contractor to perform any provisions of this Contract shall constitute a breach of contract. Either party may require corrective action within ten (10) calendar days after date of receipt of written notice citing the exact nature of the other's breach. Failure to take corrective action or failure to provide a satisfactory written reply excusing such failure within the ten (10) calendar days

shall constitute a default. The defaulting party shall be given a twenty (20) calendar day period within which to show cause why this Contract shall not be terminated for default. All notices for corrective action, breach, default or show cause on behalf of County shall be issued by the Purchasing Manager or County legal representative only, and all replies to the same shall be made in writing to the County Purchasing Manager or County legal representative at the address provided herein. Notices issued by or to anyone other than the Purchasing Manager or County legal representative shall be null and void, and shall be considered as not having been issued or received. County reserves the right to enforce the performance of this Contract in any manner prescribed by law in case of default and may contract with another party with or without competition or further notification to the contractor. At a minimum, Contractor shall be required to pay any difference in the cost of securing the services covered by this Contract, or compensate for any loss or damage to the County derived hereunder if it becomes necessary to contract with another source because of a default, plus reasonable administrative costs and attorney's fees. In the event of termination for default, County, its agents or representatives, shall not be liable for loss of any profits anticipated under this Contract.

21. TERMINATION FOR CONVENIENCE: County reserves the right to terminate this Contract upon thirty (30) days written notice for any reason deemed by the Commissioners Court to serve the public interest, or resulting from any governmental law, ordinance, regulation, or court order. Termination for convenience shall not be exercised with the sole intention of awarding the same or similar contract requirements to another source. In the event of such termination, County shall pay Contractor those costs directly attributable to work done in preparation for compliance with this Contract prior to termination; provided, however, that no costs shall be paid which are recoverable in the normal course of the business in which Contractor is engaged, nor shall County pay any costs which can be mitigated through the sale of supplies or inventories. If County pays for the cost of supplies or materials obtained for use under this Contract those supplies or materials shall become the property of County and shall be delivered to the FOB point shown in this Contract, or as designated by the Purchasing Manager. County shall not be liable for loss of any profits anticipated under this Contract.

22. GRATUITIES: Contractor shall not provide any gratuity in any form, including entertainment, gifts, or otherwise, to any employee, buyer, agent, or representative of County with a view to securing a contract, or securing favorable treatment with respect to the award or amendment, or the making of any determination with respect to the performance of this Contract. County may terminate this Contract if it is found that gratuities of any kind including entertainment, or gifts were offered or given by the Contractor or any agent or representative of the Contractor, to any County Official or employee with a view toward securing favorable treatment with respect of this contract. If this Contract is terminated by the County pursuant to this provision, County shall be entitled, in addition to any other rights and remedies, to recover from the Contractor at least three times the cost incurred by Contractor in providing the gratuities.

23. COVENANT AGAINST CONTINGENT FEES: Contractor represents and warrants that no persons or selling agency has been retained to solicit this Contract upon an understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial selling agencies maintained by the Contractor to secure business. For breach or violation of this warranty, County shall have the right to terminate this Contract without liability, or in its discretion to, as applicable, add to or deduct from the Contract price for consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

24. COUNTY ACCESS: Contractor shall maintain and make available for inspection, audit or reproduction by any authorized representative of County all books, documents, and other evidence pertinent to the costs and expenses of this Contract, including but not limited to both direct and indirect costs, cost of labor, material, equipment, supplies, and services, and all other costs and expenses of whatever nature for which reimbursement is claimed under this Contract. All required records shall be maintained until an audit is completed and all required questions arising therefrom are resolved, or three (3) years after completion of the contract term, whichever occurs first; provided, however, the records will be retained beyond the third year if an audit is in progress or the finding of a completed audit have not been resolved satisfactorily.

25. FORFEITURE OF CONTRACT:
    a. The selected Offeror must forfeit all benefits of the contract and County must retain all performance by the selected Offeror Contractor and recover all consideration or the value of all consideration paid to the selected Offeror pursuant to the contract if:
    b. The selected Offeror was doing business at the time of submitting its proposal offer or had done business during the 365- day period immediately prior to the date on which its proposal offer was due with one or more Key Contracting Persons if the selected Offeror failed to disclose the name of any such Key Contracting Person in its offer; or
    c. The selected Offeror does business with a Key Contracting Person after the date on which the offer that resulted in the contract is submitted and prior to full performance of the contract.

26. CONTRACTOR CLAIMS NOTIFICATION:
    a. If any claim, or other action, that relates to Contractor's performance under this Contract, including proceedings before an administrative agency, is made or brought by any person, firm, corporation, or other entity against Contractor, Contractor shall give written notice to County of the following information within ten (10) working days after being notified of it:
        i. The existence of the claim, or other action;
        ii. The name and address of the person, firm, corporation or their entity that made a claim or that instituted any type of action or proceeding;
        iii. The alleged basis of the claim, action or proceeding;
        iv. The court or administrative tribunal, if any, where the claim, action or proceeding was instituted; and
        v. The name or names of any person against whom this claim is being made.
    b. Except as otherwise directed, Contractor shall furnish to County copies of all pertinent papers received by Contractor with respect to making these claims or actions and all court pleadings related to the defense of these claims or actions.

27. CERTIFICATION OF ELIGIBILITY: This provision applies if the anticipated Contract exceeds $100,000. By submitting a bid or proposal in response to this solicitation, the bidder/respondent certifies that at the time of submission, he/she is not on the Federal Government's Excluded Parties List System (www.epls.gov), which details a listing of suspended, ineligible, or debarred contractors. In the event of placement on the list between the time of bid/proposal submission and time of award, the bidder/respondent will notify the Hays County Purchasing Manager. Failure to do so may result in terminating this Contract for default.

28. CONTRACTOR LIABILITY, INDEMNIFICATION AND CLAIMS NOTIFICATION: Contractor shall indemnify County, its officers, agents, and employees, from and against any and all third party claims, losses, damages, causes of action, suits, and liability of every kind whether meritorious or not and, including all expenses of litigation, court costs, and reasonable attorney's fees, arising in connection with the services provided by Contractor under this Contract. It is the expressed intention of the Parties to this Contract, both Contractor and County, that the indemnity provided for in this paragraph is indemnity by Contractor to indemnify and protect County from the consequences of Contractor's actions.

29. CONSTRUCTION OF CONTRACT:
    a. This Contract is governed by the laws of the United States of America and the State of Texas and all obligations under this Contract are performable in Hays County, Texas. Venue for any dispute arising out of this Contract will lie in the appropriate court of Hays County, Texas.
    b. If any portion of this Contract is ruled invalid, illegal, or unenforceable in any respect by a court of competent jurisdiction, the remainder of it shall remain valid and binding.
    c. Headings and titles at the beginning of the various provisions of this Contract have been included only to make it easier to locate the subject matter covered by that part, section or subsection and are not to be used in construing this Contract.

d. When any period of time is stated in this Contract, the time shall be computed to exclude the first day and include the last day of period. If the last day of any period falls on a Saturday, Sunday, or a day that Hays County has declared a holiday for its employees, these days shall be omitted from the computation. All hours in this Contract are stated in Central Standard Time from 2:00 o'clock a.m. on the first Sunday of November until 2:00 o'clock a.m. on the second Sunday of March and in Central Daylight Saving Time from 2:00 o' clock a.m. on the second Sunday of March until 2:00 o'clock a.m. on the first Sunday of November or such other dates as may be adopted for the activation of Daylight Savings Time in the United States in future years.
e. Words of any gender in this Contract shall be construed to include any other gender and words in either number shall be construed to include the other unless the context clearly requires otherwise.
f. Provisions, Words, Phrases, and Statutes, whether incorporated by actual use or by reference, shall be applied to this Contract in accordance with Texas Government Code, §§ 312.002 and 312.003.

30. ADDITIONAL GENERAL PROVISIONS:
a. Contractor must comply with all Federal and State laws and regulations, City and County ordinances, orders, and regulations, relating in any way to this Contract.
b. Contractor must secure all permits and licenses, pay all charges and fees, and give all notices necessary for lawful operations.
c. Contractor must pay all taxes and license fees imposed by the Federal and the State Governments and their agencies and political subdivisions upon the property and business of Contractor.
d. Despite anything to the contrary in this Contract, if the Contractor is delinquent in payment of property taxes at the time of providing services, Contractor assigns the amount of any payment to be made for services provided under this Contract equal to the amount Contractor is delinquent in property tax payments to the Hays County Tax Assessor-Collector for the payment of the delinquent taxes.
e. In this subsection, "County Building" means any County-owned buildings and does not include buildings leased by County. Contractor must not execute any mortgage, or issue any bonds, shares of stock, or other evidence of interest in County Buildings.

31. INTERPRETATION OF CONTRACT:
a. This document contains the entire agreement between the parties relating to the rights granted and the obligations assumed. Any prior agreements or representations not expressly set forth in this agreement are of no force. Any oral representations or modifications concerning this agreement shall be of no force except a subsequent modification in writing signed by the Purchasing Manager. No official, representative, employee, or agent of the County has any authority to modify or amend this contract except pursuant to specific authority to do so granted by the Commissioners Court.
b. If inconsistency exists between provisions of this solicitation, the inconsistency shall be resolved by giving precedence in the following ascending order of precedence:
    i. The Schedule of Items/Services
    ii. Terms and Conditions of Request for Proposals;
    iii. General Provisions;
    iv. Other provisions, whether incorporated by reference or otherwise; and
    v. The specifications.
c. If any contract provision shall for any reason be held invalid, illegal, or unenforceable in any respect, invalidity, illegality, or unenforceability shall not affect any other provision, and this contract shall be construed as if invalid, illegal or unenforceable provision had never been contained.
d. This contract shall be governed by the laws of Texas and all obligations are performable in Hays County, Texas.
e. If a word is used with reference to a particular trade or subject matter or is used as a word of art, the word shall have the meaning given by experts in that particular field.
f. Words in the present or past tense include the future tense. The singular includes the plural and the plural includes the singular. The masculine gender includes the feminine and neuter genders.

g. The headings in this contract have been included only to make it easier to locate the subject covered by each provision and are not to be used in construing this contract.
h. Provisions, words, phrases, and statutes, whether incorporated by actual use or by reference, shall be applied to this contract in accordance with TEX. GOV'T CODE ANN., SEC 312.002, 312.003 (Vernon 1991).

32. MODIFICATIONS:
    a. The County Purchasing Manager may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this contract in any one of the following:
        i. Drawings, designs or specifications when the supplies to be furnished are to be specifically manufactured for the County in accordance with the drawings, designs, or specifications.
        ii. Method of shipment or packing.
        iii. Place of deliveries.
        iv. Correction of errors of a general administrative nature or other mistakes, the correction of which does not affect the scope of the contract, or does not result in expense to the Contractor.
        v. Description of items to be provided.
        vi. Time of performance (i.e. hours of day, days of week, etc)
    b. If any such change causes an increase or decrease in the cost of, or time required for, performance of any part of the work under this contract whether, or not changed by the order, the Commissioners Court shall make an equitable adjustment in the contract price, the delivery schedule, or both, and shall modify the contract. The Contractor must submit any "proposal for adjustment" under this clause within thirty (30) calendar days from the date of receipt of the written order. However, if the County Purchasing Manager decides that the facts justify it, the County Purchasing Manager may receive and act upon a proposal submitted before final payment of the contract. If the Contractor's proposal includes the cost of property made obsolete or excess by the change, the County shall have the right to prescribe the manner of disposition of the property. Failure to agree to any adjustment shall be a dispute under the Disputes and Appeals clause. However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

33. PRICE CHANGES: The prices offered shall remain firm for the period of the contract. The prices offered shall also remain firm for the option years should the County choose to exercise the option to renew, except for changes that are industry wide and beyond the control of the contractor. Any price increase proposed must be submitted forty-five (45) calendar days prior to the anniversary date of the annual term contract and shall be supported with proper documentation. Hays County will have fifteen (15) days, from the receipt of proposed price increases, to review any proposed price increases and reserves the right to approve or disapprove any request for increased prices. If Hays County disapproves the proposed price increases, the County will issue an intent to terminate, and the contract will not be renewed.

34. INSURANCE AND LIABILITY: During the period of this contract, contractor shall maintain at his expense, insurance with limits not less than those prescribed below. With respect to required insurance, Contractor shall;
    a. Name County as additional insured as its interests may appear.
    b. Provide County a waiver of subrogation.
    c. Provide County with a thirty (30) calendar day advance written notice of cancellation or material change to said insurance.
    d. Provide the County Purchasing Manager at the address shown on Page 1 of this contract, a Certificate of Insurance evidencing required coverage within ten (10) calendar days after receipt of Notice of Award. Also, ensure your certificate contains the contract number as indicated on the Contract Award form when issued by Hays County.
    e. Submit an original certificate of insurance reflecting coverage as follows:

Automobile Liability:	
Bodily Injury (Each person)	$250,000.00
Bodily Injury (Each accident)	$500,000.00

Property Damage	$1,000,000.00

Commercial General Liability (Including Contractual Liability):	
Bodily Injury (Each accident)	$1,000,000.00
Property Damage	$100,000.00

Excess Liability:	
Umbrella Form	Not Required

Labor Liability:	
Worker's Compensation	Meeting Statutory Requirements

V. Vendor Reference Form

List three (3) references of current customers who can verify the quality of service your company provides. The County prefers customers of similar size and scope of work to this proposal/bid. **This form must be returned with your bid/proposal.**

REFERENCE ONE

Company Name: TEXAS DEPARTMENT OF TRANSPORTATION

Address: 125 E. 11TH STREET, AUSTIN, TEXAS 78701

Contact Person and Title: JAMES M. BASS EXECUTIVE DIRECTOR

Phone Number: (512) 305-9501

Scope & Duration of Contract: SUPPLY MATERIAL 40 YEARS

REFERENCE TWO

Company Name: HAYS COUNTY

Address: 712 S. STAGECOACH TRAIL, SUITE 1071, SAN MARCOS, TX 78666

Contact Person and Title: MARIBEL ALONZO COUNTY AUDITOR

Phone Number: (512) 393-2283

Scope & Duration of Contract: SUPPLY MATERIALS 30+ YEARS

REFERENCE THREE

Company Name: GONZALES COUNTY

Address: 414 ST. JOSEPH STREET, GONZALES, TEXAS 78629

Contact Person and Title: BECKY WESTON COUNTY AUDITOR

Phone Number: (830) 672-6397

Scope & Duration of Contract: SUPPLY MATERIALS, 30+ YEARS

VI. Certificate of Interested Parties

In 2015, the Texas Legislature adopted House Bill 1295, which added 2252.908 to the Texas Government Code and applies to all contracts entered into on or after January 1, 2016. Section 2252.908 (b)(1)(2) applies only to a contract of a governmental entity or state agency that requires an action or vote by the governing body of the entity or agency before the contract may be signed or that has a value of at least $1 million. In addition, pursuant to Section 2252.908 (d), a governmental entity or state agency may not enter into a contract described by Subsection (b) with a business entity unless the business entity, in accordance with this section and rules adopted under this section, submits a disclosure of interested parties to the governmental entity or state agency at the time the business entity submits the signed contract to the governmental entity or state agency.

With regard to Hays County purchases, a vendor or other person who is awarded a contract or purchase approved by Hays County Commissioners Court is required to electronically complete a Form 1295 through the Texas Ethics Commission website at https://ethics.state.tx.us/whatsnew/elf_info_form1295.htm and submit a signed copy of the form to the Hays County Purchasing office. A contract, including County issued purchase order (if applicable), will not be enforceable or legally binding until the County received and acknowledges receipt of the properly completed Form 1295 from the awarded vendor.

If you do not have access to the link provided above or have any questions, contact Purchasing at 512-393-5532.

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY
CERTIFICATION OF FILING

Certificate Number:
2021-834888

Date Filed:
12/22/2021

Date Acknowledged:

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.
Colorado Materials, Ltd
San Marcos, TX United States

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.
Hays County

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.
IFB 2022-B07
ROAD BUILDING MATERIALS - HOT MIX THIN OVERLAY

4 Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
		Controlling	Intermediary

5 Check only if there is NO Interested Party. [X]

6 UNSWORN DECLARATION

My name is Brandon Graham, and my date of birth is 1/4/83.

My address is 1446 Hallmark Blvd., New Braunfels, TX, 78132, USA.
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Comal County, State of Texas, on the 22nd day of December, 2021.
(month) (year)

Signature of authorized agent of contracting business entity
(Declarant)

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY
CERTIFICATION OF FILING

Certificate Number:
2021-834888

Date Filed:
12/22/2021

Date Acknowledged:
01/12/2022

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

Colorado Materials, Ltd
San Marcos, TX United States

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

Hays County

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

IFB 2022-B07
ROAD BUILDING MATERIALS - HOT MIX THIN OVERLAY

4 Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
		Controlling	Intermediary

5 Check only if there is NO Interested Party. [X]

6 UNSWORN DECLARATION

My name is _____, and my date of birth is _____.

My address is _____, _____, _____, _____, _____.
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in _____County, State of _____, on the _____day of _____, 20_____.
(month) (year)

_____
Signature of authorized agent of contracting business entity
(Declarant)

VII. Conflict of Interest Questionnaire

CONFLICT OF INTEREST QUESTIONNAIRE — FORM CIQ

For vendor doing business with local governmental entity

OFFICE USE ONLY
Date Received

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

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

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

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

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

NONE

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

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

NONE

Name of Officer

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

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

☐ Yes ☐ No

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

☐ Yes ☐ No

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

NONE

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

7

Signature of vendor doing business with the governmental entity

12/22/21

Date

Form provided by Texas Ethics Commission www.ethics.state.tx.us Revised 11/30/2015

CONFLICT OF INTEREST QUESTIONNAIRE
For vendor doing business with local governmental entity

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

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

(A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;

(B) a transaction conducted at a price and subject to terms available to the public; or

(C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

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

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

***

(2) the vendor:

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

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor;

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

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor.

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

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

(1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);

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

(3) has a family relationship with a local government officer of that local governmental entity.

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

(1) the date that the vendor:

(A) begins discussions or negotiations to enter into a contract with the local governmental entity; or

(B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or

(2) the date the vendor becomes aware:

(A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);

(B) that the vendor has given one or more gifts described by Subsection (a); or

(C) of a family relationship with a local government officer.

VIII. CODE OF ETHICS FOR HAYS COUNTY

Public employment is a public trust. It is the policy of Hays County to promote and balance the objective of protecting government integrity and the objective of facilitating the recruitment and retention of personnel needed by Hays County. Such a policy implemented by prescribing essential standards of ethical conduct without creating unnecessary obstacles to entering public services.

Public servants must discharge their duties impartially so as to assure fair competitive access to governmental procurement by responsible contractors. Moreover, they should conduct themselves in such a manner as to foster public confidence in the integrity of the Hays County procurement organization.

To achieve the purpose of this article, it is essential that those doing business with Hays County also observe the ethical standards prescribed here.

It shall be a breach of ethics to attempt to influence any public employee, elected official or department head to breach the standards of ethical conduct set forth in this code.

It shall be a breach of ethics for any employee of Hays County or a vendor doing business with the county to participate directly or indirectly in a procurement when the employee or vendor knows that:

The employee or any member of the employee's immediate family, or household has a substantial financial interest pertaining to the procurement. This means ownership of 10% or more of the company involved and/or ownership of stock or other interest or such valued at $2500.00 or more.

A business or organization in which the employee, or any member of the employee's immediate family, has a financial interest pertaining to the procurement.

Gratuities: It shall be a breach of ethics to offer, give or agree to give any employee of Hays County or for any employee to solicit, demand, accept or agree to accept from a vendor, a gratuity of consequence or any 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 controversy, any particular matter pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefore pending before this government.

Kickbacks: 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 Hays County as an inducement for the award of a contract or order.

Contract Clause: The prohibition against gratuities and kickbacks prescribed above shall be conspicuously set forth in every contract and solicitation therefore.

Any effort to influence any employee, elected official, or department head to violate the standards of the code is grounds to void the contract. Certify, by your signature below, that you understand the ethics policy of Hays County and in no way will attempt to violate the code.

SIGNATURE: _____

PRINT NAME & TITLE: Brandon Tanous

COMPANY NAME: Colorado Materials, LP.

IX. Hays County Practices Related to Historically Underutilized Businesses

1. STATEMENT OF PRACTICES

Hays County will strive to ensure that all businesses, regardless of size, economic, social or ethnic status have an equal opportunity to participate in the County's procurement processes. The County is committed to promote full and equal business opportunity for all businesses to supply the goods and services needed to support the mission and operations of county government, and seeks to encourage the use of certified historically underutilized businesses (HUB's) through the use of race, ethnic and gender neutral means. It is the practice of Hays County to involve certified HUBs to the greatest extent feasible in the County's procurement of goods, equipment, services and construction projects while maintaining competition and quality of work standards. The County affirms the good faith efforts who recognize and practice similar business standards.

2. DEFINITIONS

Historically underutilized businesses (HUBs), also known as a disadvantaged business enterprise (DBE), are generally business enterprises at least 51% of which is owned and the management and daily business operations are controlled by one or more persons who is/are socially and economically disadvantaged because of his/her identification as a member of certain groups, including women, Black Americans, Mexican Americans, and other Americans if Hispanic origin, Asian Americans and American Indians.

Businesses include firms, corporations, sole proprietorships, vendors, suppliers, contractors, subcontractors, professionals and other similar references when referring to a business that provides goods and/or services regardless of the commodity category.

Certified HUB's include business enterprises that meet the definition of a HUB and who meet the certification requirements of certification agencies recognized by Hays County, as expressed below.

Statutory bid limit refers to the Texas Local Government Code provision that requires competitive bidding for many items valued at greater than $50,000.

3. GUIDELINES

a. Hays County, its contractors, their subcontractors and suppliers, as well as all vendors of goods, equipment and services, shall not discriminate on the basis of race, color, creed, gender, age, religion, national origin, citizenship, mental or physical disability, veteran's status or political affiliation in the award and/or performance of contracts. All entities doing business or anticipating doing business with the County shall support, encourage and implement affirmative steps toward a common goal of establishing equal opportunity for all citizens and businesses of the County.

b. Vendors and/or contractors desiring to participate in the HUB program must successfully complete the certification process with the State of Texas or Texas Unified Certification Program. The vendor or contractor is also required to hold a current valid certification (title) from either of these entities.

c. Vendors and/or contractors must be registered with the State Comptroller's web-based HUB directory and with the Comptroller's Centralized Master Bidder's List (CMBL). Hays County will solicit bids from certified HUB's for state purchasing and public works contracts.

4. Hays County will actively seek and encourage HUBs to participate in all facets of the procurement process by:

   a. Continuing to increase and monitor a database of certified HUB vendors, professionals and contractors. The database will be expanded to include products, areas of expertise and capabilities of each HUB firm.

   b. Continuing to seek new communication links with HUB vendors, professionals and contractors to involve them in the procurement process.

   c. Continuing to advertise bids on the County's website and in the newspapers including newspapers that target socially and economically disadvantaged communities.

5. As prescribed by law, the purchase of one or more items costing in excess of the statutory bid limit must comply with the competitive bid process. Where possible, those bids will be structured to include and encourage the participation of HUB firms in the procurement process by:

   a. Division of proposed requisitions into reasonable lots in keeping with industry standards and competitive bid requirements.

   b. Where feasible, assessment of bond and insurance requirements and the designing of such requirements to reasonably permit more than one business to perform the work.

   c. Specifications of reasonable, realistic delivery schedules consistent with the County's actual requirements.

   d. Specifications, terms and conditions reflecting the County's actual requirements are clearly stated, and do not impose unreasonable or unnecessary contract requirements.

6. A HUB practice statement shall be included in all specifications. The County will consider the bidder's responsiveness to the HUB Practices in the evaluation of bids and proposals. Failure to demonstrate a good faith effort to comply with the County's HUB practices may result in a bid or proposal being considered non-responsive to specifications.

7. Nothing in this practice statement shall be construed to require the County to award a contract other than to the lowest responsive bidder as required by law. This practice is narrowly tailored in accordance with applicable law.

Sign for acknowledgement of the Hays County HUB Practices:

Signature

12/22/21
Date

X. Hays County House Bill 89 Verification

I, Brandon Casanova (Person name), the undersigned representative of Cocorwood Materials, Co. (Company or Business name, hereafter referred to as Company) being an adult over the age of eighteen (18) years of age, after being duly sworn by the undersigned notary, do hereby depose and verify under oath that the company named above, under the provisions of Subtitle F, Title 10, Government Code Chapter 2270:

1. Does not boycott Israel currently; and
2. Will not boycott Israel during the term of the contract.

Pursuant to Section 2270.001, Texas Government Code:

1. *"Boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes; and*

2. *"Company" means a for-profit sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or any limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of those entities or business associations that exist to make a profit.*

Signature of Company Representative

12/22/21
Date

On this 22nd day of December, 2021, personally appeared Brandon Casanova, the above-named person, who after by me being duly sworn, did swear and confirm that the above is true and correct.

NOTARY SEAL

THERESA J. DAVIS
Notary Public, State of Texas
Notary ID# 12632735-8
My Commission Expires
NOVEMBER 19, 2023

Theresa J. Davis
Notary Public in and for the State of Texas

12-22-21
Date

XI. Hays County Purchasing Department Senate Bill 252 Certification

Pursuant to Texas Government Code, Chapter 2252, Section 2252.152 and Section 2252.153, certify that the company named below is not listed on the website of the Comptroller of the State of Texas concerning the listing of companies that are identified under Section 806.051, Section 807.051 or Section 2253.153. I further certify that should the above-named company enter into a contract that is on said listing of companies on the website of the Comptroller of the State of Texas which do business with Iran, Sudan or any Foreign Terrorist Organization, I will immediately notify the Hays County Purchasing Department.

Colorado Materials, Ltd.

Company Name

Brandon Casanova

Print Name of Company Representative

[signature]

Signature of Company Representative

12/22/21

Date

CERTIFICATION CHECK PERFORMED BY HAYS COUNTY PURCHASING:

On this day, I, Stephanie Hunt, the Purchasing Representative for Hays County in San Marcos, Texas, pursuant to Texas Government Code, Chapter 2252, Section 2252.152 and Section 2252.153, certify that I did review the website of the Comptroller of the State of Texas concerning the listing of companies that is identified under Section 806.051, Section 807.051 or Section 2253.253 and I have ascertained that the above-named company is not contained on said listing of companies which do business with Iran, Sudan or any Foreign Terrorist Organization.

Stephanie Hunt

Print Name of Hays County Purchasing Representative

Stephanie Hunt

Signature of Hays County Purchasing Representative

Jan. 12, 2022

Date

IFB 2022-B07

RFP or Vendor number

XII. Vendor/Bidder's Affirmation

1. Vendor/Bidder affirms that they are duly authorized to execute this Contract, that this company, corporation, firm, partnership or individual has not prepared this bid in collusion with any other bidder, and that the contents of this bid as to price, terms or conditions of said bid have not been communicated by the undersigned nor by any employee or agent to any other person engages in this type of business prior to the official opening of this bid.

2. Vendor/Bidder hereby assigns to Purchaser any and all claims for overcharges associated with this Contract which arise under the antitrust laws of the United States, 15 USCA Section 1 et seq., and which arise under the antitrust laws of the State of Texas, Tex. Bus. & Com. Code, Section 15.01, et seq.

3. Pursuant to 262.0276 (a) of the Texas Local Government Code, Vendor/Bidder, hereby affirms that Vendor/Bidder:

   ✓ Does not own taxable property in Hays County, or;

   _____ Does not owe any ad valorem taxes to Hays County or is not otherwise indebted to Hays County

Colorado Materials, Ltd.
Name of Contracting Company

If taxable property is owned in Hays County, list property ID numbers:

_____

Signature of Company Official ~~Authorizing~~ Bid/Offer

Steve Riordan
Printed Name

CFO
Title

steve@huntervind.com
Email Address

512-754-4337
Phone

XIII. Debarment and Licensing Certification

STATE OF TEXAS §
§
COUNTY OF HAYS §

I, the undersigned, being duly sworn or under penalty of perjury under the laws of the United States and the State of Texas, certifies that Firm named herein below and its principals:

a. Are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any federal department or agency;
b. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
c. Are not presently indicted for or otherwise criminally or civilly charged by a federal, state or local governmental entity with commission of any of the offenses enumerated in paragraph (1)(b) of this certification;
d. Have not within a three-year period preceding this application/proposal had one or more public (federal, state or local) transactions terminated for cause or default;
e. Are registered and licensed in the State of Texas to perform the professional services which are necessary for the project; and
f. Have not been disciplined or issued a formal reprimand by any State agency for professional accreditation within the past three years.

COLORADO MATERIALS, LTD.
Name of Firm

Signature of Certifying Official

CFO
Title of Certifying Official

STEVE RIORDAN
Printed Name of Certifying Official

12/22/2021
Date

Where the Firm is unable to certify to any of the statements in this certification, such Firm shall attach an explanation to this certification.

SUBSCRIBED and sworn to before me the undersigned authority by Steve Riordan on this the day of December 2021, on behalf of said Firm.

Notary Public in and for the State of Texas

My commission expires: May 24, 2022

LYN HAGELGANS
Notary Public, State of Texas
Notary ID# 12420828-6
My Commission Expires
MAY 24, 2022

XIV. Related Party Disclosure Form

Hays County strives to provide financial transparency to its taxpayers. Completion of this form will allow for added transparency into the procurement process by disclosing Vendor relationships with current or former Hays County employees. The existence of a relationship may not present a legal or ethical conflict for a Vendor. However, disclosure will allow for consideration of potential conflicts and/or ways to eliminate conflicts.

A Vendor who Employs any of the following is required to disclose the relationship on this form:

- Current Hays County employee (including elected or appointed official) (Complete Section A)
- Former Hays County employee who has been separated from Hays County for no less than four (4) years (including elected or appointed official) (Complete Section B)
- Person related within the 2nd degree of consanguinity or affinity to either of the above[1] (Complete Section C)

If no known relationships exist, complete Section D.

This form is required to be completed in full and submitted with the proposal package. A submitted proposal package that does not include this completed form will be considered non-responsive and will not be eligible for an award.

Section A: Current Hays County Employee

Employee Name Title

Section B: Former Hays County Employee

Employee Name Title Date of Separation from County

Section C: Person Related to Current or Former Hays County Employee

Employee or Former Employee Name Title

Name of Related Person Title Relationship

Section D: No Known Relationships

If no relationships in accordance with the above exist or are known to exist, provide a written explanation below:

None

Attach additional pages if necessary.

I, the undersigned, hereby certify that the information provided is true and complete to the best of my knowledge.

COLORADO MATERIALS, LTD.
Name of Vendor

Signature of Certifying Official

SALES REP.
Title of Certifying Official

BRANDON CRAWFORD
Printed Name of Certifying Official

12/22/21
Date

[1]A degree of relationship is determined under Texas Government Code Chapter 573. (as outlined below)

Relationship of Consanguinity				
	1st Degree	**2nd Degree**	**3rd Degree***	**4th Degree***
Person	child or parent	grandchild, sister, brother or grand-parent	great-grandchild, niece, nephew, aunt,* uncle* or great-grandparent	great-great-grandchild, grandniece, grandnephew, first cousin, great aunt,* great uncle* or great-great-grandparent
* An aunt, uncle, great aunt or great uncle is related to a person by consanguinity only if he or she is the sibling of the person's parent or grandparent.				

Relationship of Affinity		
	1st Degree	**2nd Degree**
Person	spouse, mother-in-law, father-in-law, son-in-law, daughter-in-law, stepson, stepdaughter, stepmother or stepfather	brother-in-law, sister-in-law, spouse's grandparent, spouse's grandchild, grandchild's spouse or spouse of grandparent

"Vendor" shall mean any individuals or entity that seeks to enter into a contract with Hays County.

"Employs" shall mean any relationship wherein Vendor has made arrangements to compensate an individual, directly or by way of a business organization in which the individual has a sharehold or ownership interest, even if that arrangement is contractual and/or on an hourly-charge basis.

XV. Federal Affirmations and Solicitation Acceptance

In the event federal funds are used for payment of part or all of the consideration due under any contract resulting from this Solicitation Response, Respondent must execute this **Federal Affirmation and Solicitation Acceptance**, which shall constitute an agreement, without exception, to the following affirmations:

1. **Debarment and Suspension**
   Respondent certifies, by signing this Attachment, that neither it nor any of its principals or subcontractors are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency. This certification is made pursuant to the OMB guidelines at 2 CFR 180 that implement Executive Order 12549 (3 C.F.R. Part 1986 Comp., p. 189) and 12689 (3 C.F.R. Part 1989 Comp., p. 235), Debarment and Suspension, 28 C.F.R. pt. 67, § 67.510, as published as pt. VII of the May 26, 1988, Federal Register (pp. 19160-19211), and any relevant program-specific regulations. This provision shall be required of every subcontractor receiving any payment in whole or in part from federal funds.

2. **Americans with Disabilities Act**
   Respondent and any potential subcontractors shall comply with all terms, conditions, and requirements of the Americans with Disabilities Act of 1990 (P.L. 101-136), 42 U.S.C. 12101, as amended, and regulations adopted thereunder contained in 28 C.F.R. 26.101-36.999, inclusive, and any relevant program- specific regulations.

3. **Discrimination**
   Respondent and any potential subcontractors shall comply with all Federal statutes relating to nondiscrimination. These include, but are not limited to:
   a. Title VI of the Civil Rights Act of 1964 (P.L. 88-352), which prohibits discrimination on the basis of race, color, or national origin;
   b. Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex;
   c. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps;
   d. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101- 6107), which prohibits discrimination on the basis of age;
   e. The Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse;
   f. The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism;
   g. Sections 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records;
   h. Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental, or financing of housing;
   i. Any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and
   j. The requirements of any other nondiscrimination statute(s) that may apply to the application.

4. **Equal Employment Opportunity**
   Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

5. **Wages**

Under the Davis Bacon Act, 40 U.S.C. 276a – 276a-5, as amended, and the regulations adopted thereunder contained in 29 C.F.R. pt. 1 and 5. When required by Federal program legislation, all prime construction contracts in excess of $2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). Respondent and any potential subcontractors have a duty to and shall pay the prevailing wage rate specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

6. **Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708)**
Where applicable, all contracts awarded by the non-Federal entity in excess of $100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

7. Contracts for more than the simplified acquisition threshold currently set at $150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

8. All contracts in excess of $10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be affected and the basis for settlement.

9. **Lobbying**
If Respondent, in connection with any resulting contract from this Solicitation, is a recipient of a Federal contract, grant, or cooperative agreement exceeding $100,000 or a Federal loan or loan guarantee exceeding $150,000, the Contractor shall comply with the requirements of the new restrictions on lobbying contained in Section 1352, Title 31 of the U.S. Code, which are implemented in 15 CFR Part 28. Respondent shall require that the certification language of Section 1352, Title 31 of the U.S. Code be included in the award documents for all subcontracts and require that all subcontractors submit certification and disclosure forms accordingly. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

10. **Rights to Inventions Made Under a Contract or Agreement**
If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

11. Minority and Women's Businesses

Respondent and any potential subcontractors shall take affirmative steps to assure that minority and women's businesses are utilized when possible as sources of supplies, equipment, construction, and services, as detailed in the federal requirements relating to minority and women's business enterprises: Executive Order 11625 of October 13, 1971, 36 Fed. Reg. 19967, as amended by Executive Order No. 12007 of August 22, 1977, 42 Fed. Reg. 42839; Executive Order No. 12432 of July 14, 1983, 48 Fed. Reg., 32551; and Executive Order No. 12138 of May 18, 1979, 44 Fed. Reg. 29637.

12. Environmental Standards

Respondent and any potential subcontractors shall comply with environmental standards that may be prescribed pursuant to the following:

a. Institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514;

b. Notification of violating facilities pursuant to EO 11738;

c. Protection of wetlands pursuant to EO 11990;

d. Evaluation of flood hazards in floodplains in accordance with EO 11988;

e. Assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.);

f. Conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C.§§7401 et seq.);

g. Contracts and subgrants of amounts in excess of $150,000 must contain a provision that requires the non- Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

h. Protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and

i. Protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).

j. Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201).

k. A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded

- $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

13. Historic Properties

Respondent and any potential subcontractors shall assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).

14. All Other Federal Laws

Respondent and any potential subcontractors shall comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing the Solicitation.

I have read, understand, and agree to comply with the Federal Affirmations specified above. Checking "YES" indicates acceptance, while checking "NO" denotes non-acceptance.

YES ✓ NO _____

Authorized Signature: [signature]

Printed Name and Title: Brandon Castanola Sales Rep.

Respondent's Tax ID: 74-2824084 Telephone: (512) 396-1555

If Respondent is a Corporation or other legal entity, please attach a corporate resolution or other appropriate official documentation that states that the person signing this Solicitation Response is an authorized person to sign for and legally bind the corporation or entity.

REQUIRED CONTRACT PROVISIONS
FEDERAL-AID CONSTRUCTION CONTRACTS

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

ATTACHMENTS

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

I. GENERAL

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

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

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

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

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

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

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

II. NONDISCRIMINATION

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6. Training and Promotion:

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

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

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

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

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

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

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

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

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

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

8. Reasonable Accommodation for Applicants / Employees with Disabilities: The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

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

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

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

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

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

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

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

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

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

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

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

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

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

III. NONSEGREGATED FACILITIES

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

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

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

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

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

1. Minimum wages

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

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH–1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

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

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

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

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

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

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

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

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

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

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

2. Withholding

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

3. Payrolls and basic records

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

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

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

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

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

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

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

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

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

4. Apprentices and trainees

a. Apprentices (programs of the USDOL).

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

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

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

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

b. Trainees (programs of the USDOL).

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

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

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

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

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

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

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

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

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

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

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

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

10. Certification of eligibility.

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

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

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

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

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

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

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

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

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

VI. SUBLETTING OR ASSIGNING THE CONTRACT

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

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

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

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

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

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

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

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

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

VII. SAFETY: ACCIDENT PREVENTION

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

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

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

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

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

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

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

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

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

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

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

Shall be fined under this title or imprisoned not more than 5 years or both."

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

By submission of this bid/proposal or the execution of this contract, or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.
2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost $25,000 or more – as defined in 2 CFR Parts 180 and 1200.

1. **Instructions for Certification – First Tier Participants:**

a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the $25,000 threshold.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (https://www.epls.gov/), which is compiled by the General Services Administration.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

* * * * *

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

2. **Instructions for Certification - Lower Tier Participants:**

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost $25,000 or more - 2 CFR Parts 180 and 1200)

a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the $25,000 threshold.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (https://www.epls.gov/), which is compiled by the General Services Administration.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the

department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

* * * * *

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

* * * * *

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed $100,000 (49 CFR 20).

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed $100,000 and that all such recipients shall certify and disclose accordingly.

ATTACHMENT A - EMPLOYMENT AND MATERIALS PREFERENCE FOR APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS ROAD CONTRACTS

This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

XVI. FHWA 1273 Certification

I have read, understand, and agree to comply with the FHWA 1273 presented in Attachment B. Checking "YES" indicates acceptance, while checking "NO" denotes non-acceptance.

YES ✓ NO_____

Authorized Signature: _____

Printed Name and Title: Brandon Chenoweth

Respondent's Tax ID: 74-2824084 Telephone: (512) 396-1555

If Respondent is a Corporation or other legal entity, please attach a corporate resolution or other appropriate official documentation that states that the person signing this Solicitation Response is an authorized person to sign for and legally bind the corporation or entity.

An official website of the United States government Here's how you know

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Home Search Data Bank Data Services Help

Search All Words e.g. 1606N020Q02

Select Domain
Entity Information

All Entity Information

Entities

Disaster Response Registry

Exclusions

Filter By

Keyword Search

For more information on how to use our keyword search, visit our help guide

- ○ Any Words
- ◉ All Words
- ○ Exact Phrase

e.g. 123456789, Smith Corp

"colorado materials" ×

Classification

Excluded Individual

Excluded Entity

Federal Organizations

Exclusion Type

Exclusion Program

Location

Dates

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OFFICE OF THE COUNTY AUDITOR

Hays County Purchasing
712 S. Stagecoach Trail, Ste. 1071
San Marcos, Texas 78666
512-393-2283

Marisol Villarreal-Alonzo, CPA
County Auditor
marisol.alonzo@co.hays.tx.us

Vickie G. Dorsett
Assistant County Auditor
vickie.dorsett@co.hays.tx.us

December 13, 2021

ADDENDUM #1
IFB 2022-B07 Road Building Materials – Hot Mix Thin Overlay

Please find attached Addendum #1 to **IFB 2022-B07 Road Building Materials – Hot Mix Thin Overlay.**

Included in this addendum:

- Extended Question Deadline:
  - Original Deadline: December 8, 2021 @ 5:00 PM (CST)
  - New Deadline: December 20, 2021 @ 5:00 PM (CST)
- Extended Bid Deadline:
  - Original Deadline: December 21, 2021 @ 1:00 PM (CST)
  - New Deadline: December 30, 2021 @ 1:00 PM (CST)

Acknowledge receipt of this addendum by signing and returning this page with your proposal.

Signature

Company Name

12/21/21
Date

OFFICE OF THE COUNTY AUDITOR

Hays County Purchasing
712 S. Stagecoach Trail, Ste. 1071
San Marcos, Texas 78666
512-393-2283

Marisol Villarreal-Alonzo, CPA
County Auditor
marisol.alonzo@co.hays.tx.us

Vickie G. Dorsett
Assistant County Auditor
vickie.dorsett@co.hays.tx.us

December 22, 2021

ADDENDUM #2
IFB 2022-B07 Road Building Materials – Hot Mix Thin Overlay

Questions & Answers:

1. Do you know how many callouts for the Thin Overlay can be expected?
   - *Less than 10 a year*
2. How many days worth of paving will the 1000 tons be divided up into?
   - *It depends on the job and location; an estimate would be approximately 3 days.*

Acknowledge receipt of this addendum by signing and returning this page with your proposal.

Signature

Company Name

Date

IFB 2022- B07 Road Building Materials - Hot Mix Overlay
Bid Tabulation

Contract Item Number	Item Number	Description	Estimated Quanity	Unit of Measure	Colorado Materials, Ltd. Bid Price Per Unit (Pickup)	Colorado Materials, Ltd. Bid Price Per Unit (Delivered)	Lone Star Paving Company Bid Price Per Unit (Pickup)	Lone Star Paving Company Bid Price Per Unit (Delivered)
B07.1	TXDOT Item 347 Thin Overlay Mixtures (TOM)	Type C	1,000	tons	$ 125.00	$ 125.00	$ 200.00	$ 200.00
B07.2	TXDOT Item 347 Thin Overlay Mixtures (TOM)	Type F	1,000	tons	$ 125.00	$ 125.00	$ 250.00	$ 250.00
B07.3	Material Transportation Service (per mile per ton)		varies	Miles	$ 0.50		$ 0.50	
B07.4	Demurrage Charge (per hour)		1	hour	$ 100.00		$ 120.00	
	Minimum Load for Delivery				25 tons		400 tons	

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Discussion and possible action to consider the acceptance of road construction & surface drainage improvements, release of the construction bond #CMS0344771 in the amount of $743,641.94, acceptance of the 2-year maintenance bond #PB03016800715M in the amount of $732,254.05, and acceptance of the 1-year revegetation bond #PB03016800715M in the amount of $31,129.80 for 6 Creeks subd., Phase 1, Section 8A.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
ACTION-ROADS	January 18, 2022	

LINE ITEM NUMBER

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR REVIEW:** N/A

REQUESTED BY	SPONSOR	CO-SPONSOR
Jerry Borcherding	SMITH	N/A

SUMMARY

Staff recommends acceptance of construction of roads and drainage improvements within the County ROW, and all regulatory signage as posted. An engineer's concurrence letter and as-built construction plans have been received. The Transportation Department has inspected and approved the improvements and will monitor the revegetation efforts for all disturbed areas within County ROW.

HAYS COUNTY
TRANSPORTATION DEPARTMENT

P.O. BOX 906
San Marcos, TX 78667

512/393-7385
FAX: 512/393-7393

January 12, 2022

Honorable Ruben Becerra
111 E. San Antonio Street
San Marcos, Texas 78666

RE: 6 Creeks subdivision, Phase 1, Section 8A

Dear Commissioners and Judge:

Becky Carroll, P.E. with Pape-Dawson Engineers, is requesting that Hays County accept construction of the roads and surface drainage improvements for 6 Creeks subdivision, Phase 1, Section 8A, release the construction bond #CMS0344771 in the amount of $743,641.94, accept the 2-year maintenance bond #PB03016800715M in the amount of $732,254.05, and accept the 1-year revegetation bond #PB03016800715M in the amount of $31,129.80. A concurrence letter and as-built plans have been received as required by Hays County.

I recommend that construction be accepted per staff recommendations under Hays County specifications.

Respectfully,

Jerry Borcherding, P.E.
Director
Hays County Transportation

PAPE-DAWSON ENGINEERS

January 4, 2022

Mr. Jim Parman
Hays County Transportation Department
2171 Yarrington Rd
Kyle, TX 78640

Re: Engineer's Concurrence for Project Acceptance

Dear Mr. Parman:

Project:	6 Creeks-Phase 1, Section 8A
Date:	January 4, 2022
Developer:	HM 6 Creeks Development, Inc. 1011 N. Lamar Austin, TX 78703
Consultant Engineer:	Pape-Dawson Engineers, Inc. Attn: Becky Carroll, P.E. 2000 NW Loop 410 San Antonio, TX 78213

On this date, I, the undersigned Professional Engineer in the State of Texas, confirm that a member of my staff had met with the Project Contractor, City of Kyle and Hays County and made a final visual observation of the above referenced project. The items noted during the final Hays County walk-though on December 15, 2021 have been addressed and no other discrepancies from the approved plans were found other than those identified on the Plan of Record. I, therefore recommend acceptance of this project by the City of Kyle and Hays County.

Sincerely,
Pape-Dawson Engineers, Inc.

Becky Carroll, P.E.
Vice President

P:\81\41\16\Word\Letters\210930a1.docx

Philadelphia Indemnity Insurance Company

One Bala Plaza, Suite 100
Bala Cynwyd, PA 19004
877-438-7459

Bond No. PB03016800715M

MAINTENANCE BOND

KNOW ALL MEN BY THESE PRESENTS, that we DNT Construction, LLC as Principal, and Philadelphia Indemnity Insurance Company, a corporation organized under the laws of the State of Pennsylvania, and duly authorized to do business in the State of Texas as Surety, are held and firmly bound unto Hays County as Obligee, in the penal sum of Seven Hundred Thirty Two Thousand Two Hundred Fifty Four and 05/100 ($732,254.05) to which payment well and truly to be made we do bind ourselves, and each of our heirs, executors, administrators, successors and assigns jointly and severally, firmly by these presents.

WHEREAS, the said Principal has entered into a contract with HMBRR Development dated March 4, 2021 for 6 Creeks Section 8A Hays County, Maintenance Bond, which contract is hereinafter referred to as the "Contract."

WHEREAS, said Obligee requires that the Principal furnish a bond conditioned to guarantee for the period of Two year (s) from date of acceptance of the work performed under the Contract against all defects in workmanship and materials which would have been the responsibility under the Contract for which written notice is made to Surety during said period

NOW THEREFORE, THE CONDITIONS OF THIS OBLIGATION IS SUCH that, if the Principal shall indemnify the Obligee for all loss that the Obligee may sustain by reason of any defective materials or workmanship which may become apparent and with respect to which notice is delivered to Surety in writing during the period of Two year (s) from and after date of acceptance of the work under the Contract, then this obligation shall be void, otherwise to remain in full force and effect.

No right of action shall accrue hereunder to or for the benefit of any person or entity other the Obligee named herein, nor shall any suit be filed or action maintained on this bond more than twenty five (25) months after the date of the earliest timely notice of defect by Obligee to Surety.

SIGNED, SEALED AND DATED THIS 23rd day of November, 2021.

DNT Construction, LLC
Principal

By: _____
Dean Tomme, President

Philadelphia Indemnity Insurance Company

By: _____
Jeremy Farque, Attorney-in-Fact

PHILADELPHIA INDEMNITY INSURANCE COMPANY
One Bala Plaza, Suite 100
Bala Cynwyd, PA 19004-0950

Power of Attorney

KNOW ALL PERSONS BY THESE PRESENTS: That **PHILADELPHIA INDEMNITY INSURANCE COMPANY** (the Company), a corporation organized and existing under the laws of the Commonwealth of Pennsylvania, does hereby constitute and appoint **Tom Mulanax, Michael Whorton, David Whorton, Rachel Martinez, Rosemarie Lopez, Jeremy Farque and/or Noe Moreno of Whorton Insurance Services,** its true and lawful Attorney-in-fact with full authority to execute on its behalf bonds, undertakings, recognizances and other contracts of indemnity and writings obligatory in the nature thereof, issued in the course of its business and to bind the Company thereby, in an amount not to exceed **$50,000,000.**

This Power of Attorney is granted and is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of PHILADELPHIA INDEMNITY INSURANCE COMPANY on the 14th of November, 2016.

RESOLVED: That the Board of Directors hereby authorizes the President or any Vice President of the Company: (1) Appoint Attorney(s) in Fact and authorize the Attorney(s) in Fact to execute on behalf of the Company bonds and undertakings, contracts of indemnity and other writings obligatory in the nature thereof and to attach the seal of the Company thereto; and (2) to remove, at any time, any such Attorney-in-Fact and revoke the authority given. And, be it

FURTHER RESOLVED: That the signatures of such officers and the seal of the Company may be affixed to any such Power of Attorney or certificate relating thereto by facsimile, and any such Power of Attorney so executed and certified by facsimile signatures and facsimile seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking to which it is attached.

IN TESTIMONY WHEREOF, PHILADELPHIA INDEMNITY INSURANCE COMPANY HAS CAUSED THIS INSTRUMENT TO BE SIGNED AND ITS CORPORATE SEALTO BE AFFIXED BY ITS AUTHORIZED OFFICE THIS 5TH DAY OF MARCH, 2021.

(Seal)

John Glomb, President & CEO
Philadelphia Indemnity Insurance Company

On this 5th day of March, 2021 before me came the individual who executed the preceding instrument, to me personally known, and being by me duly sworn said that he is the therein described and authorized officer of the **PHILADELPHIA INDEMNITY INSURANCE COMPANY**; that the seal affixed to said instrument is the Corporate seal of said Company; that the said Corporate Seal and his signature were duly affixed.

Commonwealth of Pennsylvania - Notary Seal
Vanessa Mckenzie, Notary Public
Montgomery County
My commission expires November 3, 2024
Commission number 1366394
Member, Pennsylvania Association of Notaries

Notary Public: Vanessa McKenzie

residing at: Bala Cynwyd, PA

My commission expires: November 3, 2024

I, Edward Sayago, Corporate Secretary of PHILADELPHIA INDEMNITY INSURANCE COMPANY, do hereby certify that the foregoing resolution of the Board of Directors and the Power of Attorney issued pursuant thereto on the 5th day March, 2021 are true and correct and are still in full force and effect. I do further certify that John Glomb, who executed the Power of Attorney as President, was on the date of execution of the attached Power of Attorney the duly elected President of PHILADELPHIA INDEMNITY INSURANCE COMPANY.

In Testimony Whereof I have subscribed my name and affixed the facsimile seal of each Company this 23rd day of November, 2021.

Edward Sayago, Corporate Secretary
PHILADELPHIA INDEMNITY INSURANCE COMPANY

MAINTENANCE - REVEGETATION BOND

Bond No. PB03016800715M

KNOW ALL MEN BY THESE PRESENTS,

That we DNT Construction, LLC, as Principal, and PHILADELPHIA INDEMNITY INSURANCE COMPANY, a corporation organized under the laws of the State of Pennsylvania, and authorized to do business in the State of Texas, as Surety, are held and firmly bound unto Hays County, Texas as Obligee in the penal sum of Thirty One Thousand One Hundred Twenty Nine and 80/100 ($31,129.80) to which payment well and truly to be made we do bind ourselves, and each of our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the said Principal has completed that certain work (herein referred to as the "Work") described as:
Non-Native Seeding for Erosion Control, Hydro Mulch Improvements – 6 Creeks Section 8AHays County, Revegetation Bond

WHEREAS, the Obligee requires that the Principal furnish a bond conditioned to guarantee the Work against defects in workmanship and materials which are the responsibility of the Principal under the contract under which the Work was constructed, and which did not appear prior to the final completion of the Work.

NOW THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the Principal shall indemnify the Obligee for all loss that the obligee may sustain by reason of defective materials or workmanship which may first become apparent, and with respect to which written notice is delivered to Surety, at the expiration of the period of sixty days from the date of substantial completion, being the establishment of grass/vegetation at 70% in areas of hydro mulch, then this obligation shall be void, otherwise to remain in full force and effect for a period of up to One Year. However, such termination shall not discharge the Surety from any liability previously accrued pursuant to this bond.

This obligation does not cover normal wear and tear of materials, misuse or abuse by the Obligee or third parties, failure of Obligee to perform oblige-required maintenance, nor any defects known to Obligee prior to final completion of the Work nor any defects discovered or occurring after the expiration of the period set forth above.

Signed, Sealed and Dated this September 17, 2021.

DNT Construction, LLC
Principal

By: _____

PHILADELPHIA INDEMNITY INSURANCE COMPANY
Surety

By: _____
Jeremy Farque, Attorney-In-Fact

PHILADELPHIA INDEMNITY INSURANCE COMPANY
One Bala Plaza, Suite 100
Bala Cynwyd, PA 19004-0950

Power of Attorney

KNOW ALL PERSONS BY THESE PRESENTS: That **PHILADELPHIA INDEMNITY INSURANCE COMPANY** (the Company), a corporation organized and existing under the laws of the Commonwealth of Pennsylvania, does hereby constitute and appoint **Tom Mulanax, Michael Whorton, David Whorton, Rachel Martinez, Rosemarie Lopez, Jeremy Farque and/or Noe Moreno of Whorton Insurance Services,** its true and lawful Attorney-in-fact with full authority to execute on its behalf bonds, undertakings, recognizances and other contracts of indemnity and writings obligatory in the nature thereof, issued in the course of its business and to bind the Company thereby, in an amount not to exceed **$50,000,000.**

This Power of Attorney is granted and is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of PHILADELPHIA INDEMNITY INSURANCE COMPANY on the 14th of November, 2016.

RESOLVED: That the Board of Directors hereby authorizes the President or any Vice President of the Company: (1) Appoint Attorney(s) in Fact and authorize the Attorney(s) in Fact to execute on behalf of the Company bonds and undertakings, contracts of indemnity and other writings obligatory in the nature thereof and to attach the seal of the Company thereto; and (2) to remove, at any time, any such Attorney-in-Fact and revoke the authority given. And, be it

FURTHER RESOLVED: That the signatures of such officers and the seal of the Company may be affixed to any such Power of Attorney or certificate relating thereto by facsimile, and any such Power of Attorney so executed and certified by facsimile signatures and facsimile seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking to which it is attached.

IN TESTIMONY WHEREOF, PHILADELPHIA INDEMNITY INSURANCE COMPANY HAS CAUSED THIS INSTRUMENT TO BE SIGNED AND ITS CORPORATE SEALTO BE AFFIXED BY ITS AUTHORIZED OFFICE THIS 5TH DAY OF MARCH, 2021.

(Seal)

John Glomb, President & CEO
Philadelphia Indemnity Insurance Company

On this 5th day of March, 2021 before me came the individual who executed the preceding instrument, to me personally known, and being by me duly sworn said that he is the therein described and authorized officer of the **PHILADELPHIA INDEMNITY INSURANCE COMPANY**; that the seal affixed to said instrument is the Corporate seal of said Company; that the said Corporate Seal and his signature were duly affixed.

Commonwealth of Pennsylvania - Notary Seal
Vanessa Mckenzie, Notary Public
Montgomery County
My commission expires November 3, 2024
Commission number 1366394
Member, Pennsylvania Association of Notaries

Notary Public: Vanessa McKenzie

residing at: Bala Cynwyd, PA

My commission expires: November 3, 2024

I, Edward Sayago, Corporate Secretary of PHILADELPHIA INDEMNITY INSURANCE COMPANY, do hereby certify that the foregoing resolution of the Board of Directors and the Power of Attorney issued pursuant thereto on the 5th day March, 2021 are true and correct and are still in full force and effect. I do further certify that John Glomb, who executed the Power of Attorney as President, was on the date of execution of the attached Power of Attorney the duly elected President of PHILADELPHIA INDEMNITY INSURANCE COMPANY.

In Testimony Whereof I have subscribed my name and affixed the facsimile seal of each Company this 17th day of September, 2021.

Edward Sayago, Corporate Secretary
PHILADELPHIA INDEMNITY INSURANCE COMPANY

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Discussion and possible action to consider the acceptance of road construction & surface drainage improvements, release of the construction bond #0797172 in the amount of $1,197,784.00, acceptance of the 2-year maintenance bond #EACX4020543 in the amount of $162,339.05, and acceptance of the 2-year revegetation bond #EACX4020546 in the amount of $6,518.00 for Sunset Oaks subd., Section 4, Phase 1B.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
ACTION-ROADS	January 18, 2022	

LINE ITEM NUMBER

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR REVIEW:** N/A

REQUESTED BY	SPONSOR	CO-SPONSOR
Jerry Borcherding	INGALSBE	N/A

SUMMARY

Staff recommends acceptance of construction of roads and drainage improvements within the County ROW, and all regulatory signage as posted. An engineer's concurrence letter and as-built construction plans have been received. The Transportation Department has inspected and approved the improvements and will monitor the revegetation efforts for all disturbed areas within County ROW.

HAYS COUNTY
TRANSPORTATION DEPARTMENT

P.O. BOX 906
San Marcos, TX 78667

512/393-7385
FAX: 512/393-7393

January 12, 2022

Honorable Ruben Becerra
111 E. San Antonio Street
San Marcos, Texas 78666

RE: Sunset Oaks subdivision, Section 4, Phase 1B

Dear Commissioners and Judge:

Josh Janysek, P.E. with Brown & Gay Engineering, Inc., is requesting that Hays County accept construction of the roads and surface drainage improvements for Sunset Oaks subdivision, Section 4, Phase 1B, release the construction bond #0797172 in the amount of $1,197,784.00, accept the 2-year maintenance bond #EACX4020543 in the amount of $162,339.05, and accept the 2-year revegetation bond #EACX4020546 in the amount of $6,518.00. A concurrence letter and as-built plans have been received as required by Hays County.

I recommend that construction be accepted per staff recommendations under Hays County specifications.

Respectfully,

Jerry Borcherding, P.E.
Director
Hays County Transportation

11/29/2021

RE: Sunset Oaks Section 4 Phase 1-B
Streets, Drainage, Water & Wastewater
PICP 2019-30256
Substantial Completion Letter

To Whom It May Concern:

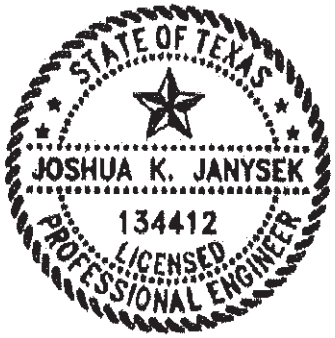
On November 29, 2021, I the undersigned professional engineer, or my designated representative, made a final visual inspection of the above referenced project along with Contractor, Owner, and County Inspection Staff. This inspection represented the culmination of multiple site visits conducted by BGE, Inc., during construction of this project. The conclusion drawn from this final inspection and those site visits conducted during construction is that the Sunset Oaks Section 4 Phase 1-B Paving, Drainage, Water & Wastewater Improvements project is substantially complete. A punchlist of minor items either still outstanding or requiring correction has been created and the Contractor is working on the items identified. One of the items on the list is obtaining and submitting the required Maintenance Bonds to the Agencies with jurisdiction. Please contact me at (830) 556-9291 should you have any questions or concerns with issuing Maintenance Bonds for this project.

Sincerely,
BGE, Inc.

Josh Janysek, P.E.
Project Manager – Construction

cc: Bill Barton, Lennar
Coy Lowden, Lowden Excavation

11/29/2021



ENDURANCE ASSURANCE CORPORATION
Surety's Name

MAINTENANCE BOND

Bond No. EACX4020543

KNOW ALL MEN BY THESE PRESENT, That we, Dale Lowden Excavating, LLC (Principal's Name), 3310 Yarrington Road San Marcos TX 78666 (Principal's Address), hereinafter called Principal, and Endurance Assurance Corporation (Surety's Name), 25025 N. I-45 Freeway, Suite 525 The Woodlands TX 77380 (Surety's Address), hereinafter called Surety, are held and firmly bound unto Hays County (Obligee's Name), 712 S. Stagecoach Trail, San Marcos, Texas 78666, hereinafter called Obligee, in the full and just sum of One Hundred Sixty Two Thousand Three Hundred Thirty Nine Dollars and 05/100 Dollars ($ 162,339.05), lawful money of the United States, for the payment of which we bind ourselves, our heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, said Obligee has entered into a certain agreement with Hays County (Owner's Name) a portion of which requires a Two (2) year(s) maintenance bond covering workmanship and materials for the List of Improvements covered, hereinafter called Improvements, at Sunset Oaks Section 4 Phase 1 - B; (Project Name) Erosion Control, Drainage, Street Construction (Project Address), which improvements have been or are about to be completed and accepted.

NOW, THEREFORE, if said Improvements shall be free from defects of workmanship and materials, general wear and tear excepted, for a period of Two (2) year(s) from the date of acceptance of said improvements, then this obligation shall be null and void; otherwise to remain in full force and effect.

Signed, sealed and dated this 12 day of November 2021.

Witness as to Principal

Dale Lowden Excavating, LLC
Principal's Name

By: _____

DALE LOWDEN EXCAVATING, LLC CORPORATE SEAL JULY 1998 STATE OF TEXAS

Witness as to Surety Elaine Lewis

Endurance Assurance Corporation
Surety's Name

By: _____
Scott D. Chapman, Attorney in Fact

Endurance Assurance Corporation CORPORATE SEAL DELAWARE

SOMPO INTERNATIONAL
INSURANCE

POWER OF ATTORNEY

11221

KNOW ALL BY THESE PRESENTS, that **Endurance Assurance Corporation**, a Delaware corporation, **Endurance American Insurance Company**, a Delaware corporation, **Lexon Insurance Company**, a Texas corporation, and/or **Bond Safeguard Insurance Company**, a South Dakota corporation, each, a "Company" and collectively, "**Sompo International**," do hereby constitute and appoint: **Scott D. Chapman, Misty Witt, Rosalyn Hassell, Elaine Lewis, Cheryl R. Colson**

as true and lawful Attorney(s)-In-Fact to make, execute, seal, and deliver for, and on its behalf as surety or co-surety; bonds and undertakings given for any and all purposes, also to execute and deliver on its behalf as aforesaid renewals, extensions, agreements, waivers, consents or stipulations relating to such bonds or undertakings provided, however, that no single bond or undertaking so made, executed and delivered shall obligate the Company for any portion of the penal sum thereof in excess of the sum of **ONE HUNDRED MILLION Dollars ($100,000,000.00).**

Such bonds and undertakings for said purposes, when duly executed by said attorney(s)-in-fact, shall be binding upon the Company as fully and to the same extent as if signed by the President of the Company under its corporate seal attested by its Corporate Secretary.

This appointment is made under and by authority of certain resolutions adopted by the sole shareholder of each Company by unanimous written consent effective the 15th day of June, 2019, a copy of which appears below under the heading entitled "Certificate".

This Power of Attorney is signed and sealed by facsimile under and by authority of the following resolution adopted by the sole shareholder of each Company by unanimous written consent effective the 15th day of June, 2019 and said resolution has not since been revoked, amended or repealed:

RESOLVED, that the signature of an individual named above and the seal of the Company may be affixed to any such power of attorney or any certificate relating thereto by facsimile, and any such power of attorney or certificate bearing such facsimile signature or seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking to which it is attached.

IN WITNESS WHEREOF, each Company has caused this instrument to be signed by the following officers, and its corporate seal to be affixed this 15th day of June, 2019.

Endurance Assurance Corporation
By: Richard M Appel
Richard Appel; SVP & Senior Counsel

Endurance American Insurance Company
By: Richard M Appel
Richard Appel; SVP & Senior Counsel

Lexon Insurance Company
By: Richard M Appel
Richard Appel; SVP & Senior Counsel

Bond Safeguard Insurance Company
By: Richard M Appel
Richard Appel; SVP & Senior Counsel

ACKNOWLEDGEMENT

On this 15th day of June, 2019, before me, personally came the above signatories known to me, who being duly sworn, did depose and say that he/they is/are officer of each of the Companies; and that he executed said instrument on behalf of each Company by authority of his office under the by-laws of each Company.

By: Amy Taylor
Amy Taylor, Notary Public – My Commission Expires 5/9/23

CERTIFICATE

I, the undersigned Officer of each Company, DO HEREBY CERTIFY that:

1. That the original power of attorney of which the foregoing is a copy was duly executed on behalf of each Company and has not since been revoked, amended or modified; that the undersigned has compared the foregoing copy thereof with the original power of attorney, and that the same is a true and correct copy of the original power of attorney and of the whole thereof;
2. The following are resolutions which were adopted by the sole shareholder of each Company by unanimous written consent effective June 15, 2019 and said resolutions have not since been revoked, amended or modified:

   "RESOLVED, that each of the individuals named below is authorized to make, execute, seal and deliver for and on behalf of the Company any and all bonds, undertakings or obligations in surety or co-surety with others: RICHARD M. APPEL, BRIAN J. BEGGS, CHRISTOPHER DONELAN, SHARON L. SIMS, CHRISTOPHER L. SPARRO, MARIANNE L. WILBERT

   ; and be it further

   RESOLVED, that each of the individuals named above is authorized to appoint attorneys-in-fact for the purpose of making, executing, sealing and delivering bonds, undertakings or obligations in surety or co-surety for and on behalf of the Company."
3. The undersigned further certifies that the above resolutions are true and correct copies of the resolutions as so recorded and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal this 12 day of November, 2021.

By:
Daniel S. Lorie, Secretary

NOTICE: U. S. TREASURY DEPARTMENT'S OFFICE OF FOREIGN ASSETS CONTROL (OFAC)

No coverage is provided by this Notice nor can it be construed to replace any provisions of any surety bond or other surety coverage provided. This Notice provides information concerning possible impact on your surety coverage due to directives issued by OFAC. **Please read this Notice carefully.**

The Office of Foreign Assets Control (OFAC) administers and enforces sanctions policy, based on Presidential declarations of "national emergency". OFAC has identified and listed numerous foreign agents, front organizations, terrorists, terrorist organizations, and narcotics traffickers as "Specially Designated Nationals and Blocked Persons". This list can be located on the United States Treasury's website – https://www.treasury.gov/resource-center/sanctions/SDN-List.

In accordance with OFAC regulations, if it is determined that you or any other person or entity claiming the benefits of any coverage has violated U.S. sanctions law or is a Specially Designated National and Blocked Person, as identified by OFAC, any coverage will be considered a blocked or frozen contract and all provisions of any coverage provided are immediately subject to OFAC. When a surety bond or other form of surety coverage is considered to be such a blocked or frozen contract, no payments nor premium refunds may be made without authorization from OFAC. Other limitations on the premiums and payments may also apply.

Any reproductions are void.

Surety Claims Submission: LexonClaimAdministration@sompo-intl.com
Telephone: 615-553-9500 Mailing Address: Sompo International; 12890 Lebanon Road; Mount Juliet, TN 37122-2870

Policyholder Notice

TEXAS - IMPORTANT NOTICE

To obtain information or make a complaint:
You may call the company's telephone number for information or to make a complaint at:

1-877-676-7575

You may write the Company at:

Endurance Assurance Corporation
Attention: Surety
1221 Avenue of the Americas, 18th Floor
New York, NY 10020

You may contact the Texas Department of Insurance to obtain information on companies, coverages, rights or complaints at:

1-800-252-3439

You may write the

Texas Department of Insurance
PO Box 149104
Austin, TX 78714-9104
FAX# (512) 490-1007

Web: http://www.tdi. texas.gov

E-mail: ConsumerProtection@tdi. texas.gov

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UNA ESTE AVISO A SU POLIZA: Este aviso es solo para proposito de informacion y no se convierte en parte o condicion del documento adjunto.

ENDURANCE ASSURANCE CORPORATION
Surety's Name

MAINTENANCE BOND

Bond No. EACX4020546

KNOW ALL MEN BY THESE PRESENT, That we, Dale Lowden Excavating, LLC (Principal's Name), 3310 Yarrington Road San Marcos TX 78666 (Principal's Address), hereinafter called Principal, and Endurance Assurance Corporation (Surety's Name), 25025 N. I-45 Freeway, Suite 525 The Woodlands TX 77380 (Surety's Address), hereinafter called Surety, are held and firmly bound unto Hays County (Obligee's Name), 712 S. Stagecoach Trail, San Marcos, Texas 78666, hereinafter called Obligee, in the full and just sum of Six Thousand Five Hundred Eighteen Dollars and 00/100 ---------- Dollars ($ 6,518.00), lawful money of the United States, for the payment of which we bind ourselves, our heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, said Obligee has entered into a certain agreement with Hays County (Owner's Name) a portion of which requires a Two (2) year(s) maintenance bond covering workmanship and materials for the List of Improvements covered, hereinafter called Improvements, at Sunset Oaks Section 4 Phase 1 - B; (Project Name) Revegetation (Project Address), which Improvements have been or are about to be completed and accepted.

NOW, THEREFORE, if said Improvements shall be free from defects of workmanship and materials, general wear and tear excepted, for a period of Two (2) year(s) from the date of acceptance of said Improvements, then this obligation shall be null and void; otherwise to remain in full force and effect.

Signed, sealed and dated this 29th day of December, 2021.

Witness as to Principal

Dale Lowden Excavating, LLC
Principal's Name

By: Kenneth Lowden, V.P.

Misty Witt
Witness as to Surety Misty Witt

Endurance Assurance Corporation
Surety's Name

By: Scott D. Chapman, Attorney in Fact

Endurance Assurance Corporation CORPORATE SEAL DELAWARE

SOMPO INTERNATIONAL
INSURANCE

POWER OF ATTORNEY

11221

KNOW ALL BY THESE PRESENTS, that **Endurance Assurance Corporation**, a Delaware corporation, **Endurance American Insurance Company**, a Delaware corporation, **Lexon Insurance Company**, a Texas corporation, and/or **Bond Safeguard Insurance Company**, a South Dakota corporation, each, a "Company" and collectively, **"Sompo International,"** do hereby constitute and appoint: **Scott D. Chapman, Misty Witt, Rosalyn Hassell, Elaine Lewis, Cheryl R. Colson**

as true and lawful Attorney(s)-In-Fact to make, execute, seal, and deliver for, and on its behalf as surety or co-surety; bonds and undertakings given for any and all purposes, also to execute and deliver on its behalf as aforesaid renewals, extensions, agreements, waivers, consents or stipulations relating to such bonds or undertakings provided, however, that no single bond or undertaking so made, executed and delivered shall obligate the Company for any portion of the penal sum thereof in excess of the sum of **ONE HUNDRED MILLION Dollars ($100,000,000.00).**

Such bonds and undertakings for said purposes, when duly executed by said attorney(s)-in-fact, shall be binding upon the Company as fully and to the same extent as if signed by the President of the Company under its corporate seal attested by its Corporate Secretary.

This appointment is made under and by authority of certain resolutions adopted by the sole shareholder of each Company by unanimous written consent effective the 15th day of June, 2019, a copy of which appears below under the heading entitled "Certificate".

This Power of Attorney is signed and sealed by facsimile under and by authority of the following resolution adopted by the sole shareholder of each Company by unanimous written consent effective the 15th day of June, 2019 and said resolution has not since been revoked, amended or repealed:

RESOLVED, that the signature of an individual named above and the seal of the Company may be affixed to any such power of attorney or any certificate relating thereto by facsimile, and any such power of attorney or certificate bearing such facsimile signature or seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking to which it is attached.

IN WITNESS WHEREOF, each Company has caused this instrument to be signed by the following officers, and its corporate seal to be affixed this 15th day of June, 2019.

Endurance Assurance Corporation
By: Richard M Appel
Richard Appel; SVP & Senior Counsel

Endurance American Insurance Company
By: Richard M Appel
Richard Appel; SVP & Senior Counsel

Lexon Insurance Company
By: Richard M Appel
Richard Appel; SVP & Senior Counsel

Bond Safeguard Insurance Company
By: Richard M Appel
Richard Appel; SVP & Senior Counsel

ACKNOWLEDGEMENT

On this 15th day of June, 2019, before me, personally came the above signatories known to me, who being duly sworn, did depose and say that he/they is/are officer of each of the Companies; and that he executed said instrument on behalf of each Company by authority of his office under the by-laws of each Company.

By: Amy Taylor
Amy Taylor, Notary Public - My Commission Expires 5/9/23

CERTIFICATE

I, the undersigned Officer of each Company, DO HEREBY CERTIFY that:

1. That the original power of attorney of which the foregoing is a copy was duly executed on behalf of each Company and has not since been revoked, amended or modified; that the undersigned has compared the foregoing copy thereof with the original power of attorney, and that the same is a true and correct copy of the original power of attorney and of the whole thereof;
2. The following are resolutions which were adopted by the sole shareholder of each Company by unanimous written consent effective June 15, 2019 and said resolutions have not since been revoked, amended or modified:

   "RESOLVED, that each of the individuals named below is authorized to make, execute, seal and deliver for and on behalf of the Company any and all bonds, undertakings or obligations in surety or co-surety with others: RICHARD M. APPEL, BRIAN J. BEGGS, CHRISTOPHER DONELAN, SHARON L. SIMS, CHRISTOPHER L. SPARRO, MARIANNE L. WILBERT

   ; and be it further

   RESOLVED, that each of the individuals named above is authorized to appoint attorneys-in-fact for the purpose of making, executing, sealing and delivering bonds, undertakings or obligations in surety or co-surety for and on behalf of the Company."
3. The undersigned further certifies that the above resolutions are true and correct copies of the resolutions as so recorded and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal this 29th day of December, 2021.

By:
Daniel S. Lurie, Secretary

NOTICE: U. S. TREASURY DEPARTMENT'S OFFICE OF FOREIGN ASSETS CONTROL (OFAC)

No coverage is provided by this Notice nor can it be construed to replace any provisions of any surety bond or other surety coverage provided. This Notice provides information concerning possible impact on your surety coverage due to directives issued by OFAC. **Please read this Notice carefully.**

The Office of Foreign Assets Control (OFAC) administers and enforces sanctions policy, based on Presidential declarations of "national emergency". OFAC has identified and listed numerous foreign agents, front organizations, terrorists, terrorist organizations, and narcotics traffickers as "Specially Designated Nationals and Blocked Persons". This list can be located on the United States Treasury's website – https://www.treasury.gov/resource-center/sanctions/SDN-List.

In accordance with OFAC regulations, if it is determined that you or any other person or entity claiming the benefits of any coverage has violated U.S. sanctions law or is a Specially Designated National and Blocked Person, as identified by OFAC, any coverage will be considered a blocked or frozen contract and all provisions of any coverage provided are immediately subject to OFAC. When a surety bond or other form of surety coverage is considered to be such a blocked or frozen contract, no payments nor premium refunds may be made without authorization from OFAC. Other limitations on the premiums and payments may also apply.

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AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

PLN-1834-NP; Whispering Oaks Ranch Subdivision (1 Lot). Discussion and possible action to approve the final plat.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
ACTION-SUBDIVISIONS	January 18, 2022	

LINE ITEM NUMBER

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR REVIEW:** N/A

REQUESTED BY	SPONSOR	CO-SPONSOR
MACHACEK	SHELL	N/A

SUMMARY

Whispering Oaks Ranch is a proposed 1 lot subdivision across 8.67 acres along Pursley Road in Precinct 3.

Water service will be provided by private wells or rainwater collection. Wastewater treatment will be accomplished by individual on-site sewage facilities.

Hays County Commissioners Court Agenda Request

Meeting Date: January 18th, 2022
Requested By: Colby Machacek, County Planner
Prepared By: Colby Machacek, County Planner
Department Director: Marcus Pacheco, Development Services Director
Sponsoring Court Member: Lon Shell, Commissioner Precinct 3

AGENDA ITEM LANGUAGE:

PLN-1834-NP; Whispering Oaks Ranch Subdivision (1 Lot). Discussion and possible action to approve the final plat.

BACKGROUND/SUMMARY OF REQUEST:

Whispering Oaks Ranch is a proposed 1 lot subdivision across 8.67 acres along Pursley Road in Precinct 3, in the fully unincorporated area of the County.

Water utility will be provided by private well or rainwater collection. Wastewater treatment will be accomplished by individual on-site sewage facility.

STAFF COMMENTS:

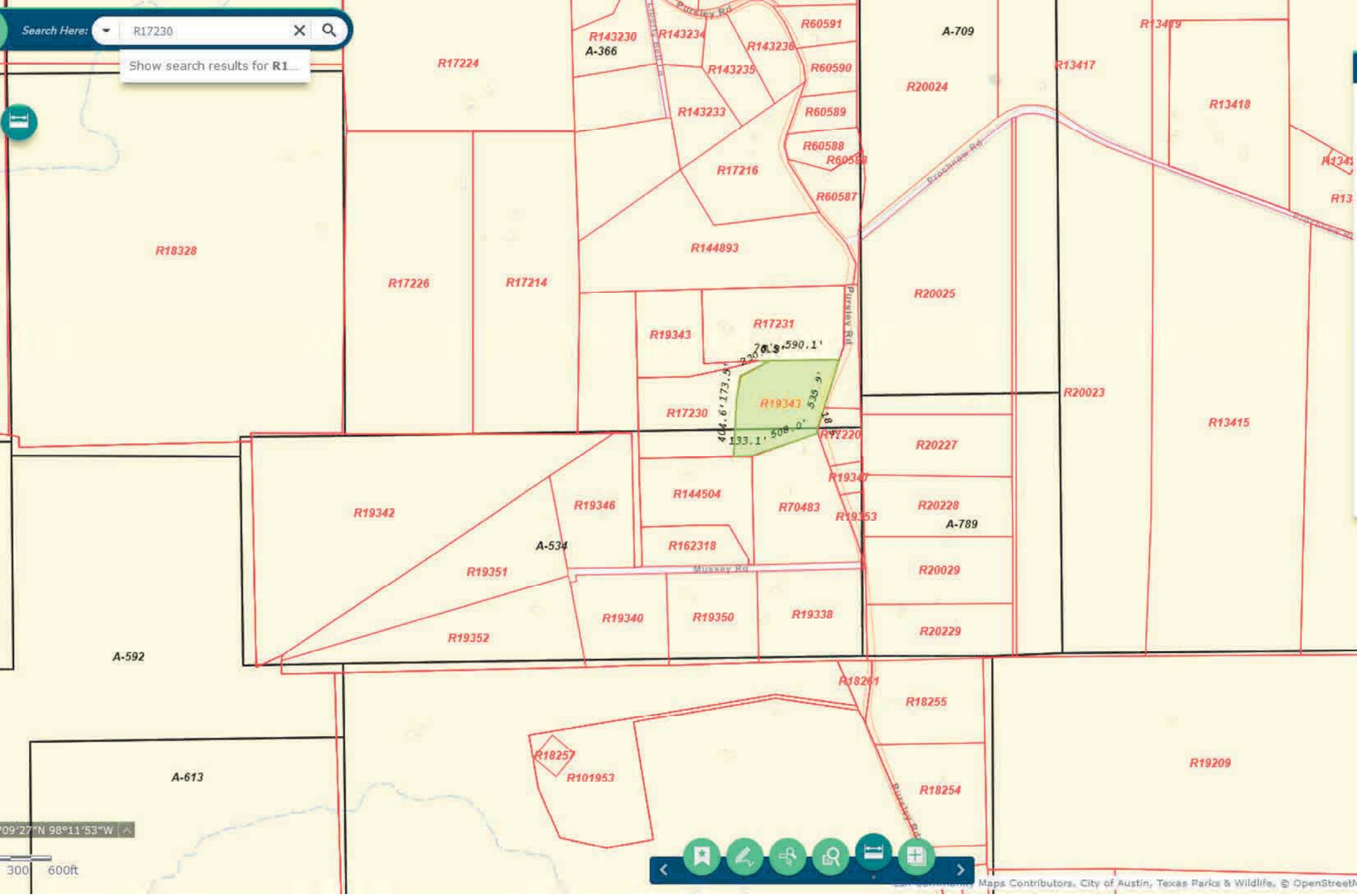
Plat/Plan review has concluded finding no further deficiencies from the established Hays County Development/Subdivision Regulations nor the rules set forth in Texas Local Gov't Code Chapter 232.

There are no variances requested and has full staff recommendation.

ATTACHMENTS/EXHIBITS:

Location Map

Subdivision Plat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R17230
Show search results for R1...
R17224
R143230
A-366
R143234
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R60591
R60590
R60589
R60588
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R19338
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R20229
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R18255
R18257
R101953
R19209
A-613
R18254
Pursley Rd
Prochnow Rd
Mussey Rd
300
600ft
Maps Contributors, City of Austin, Texas Parks & Wildlife, © OpenStreetM

WHISPERING OAKS RANCH

STATE OF TEXAS
COUNTY OF HAYS

THAT, RAMIE GONZALEZ AND VINCE A. GONZALEZ, OWNERS OF 9.13 ACRES OF LAND SITUATED IN THE CICEROS R. PERRY SURVEY, ABSTRCACT NO. 366 AND THE A.R. OPRY SURVEY, ABSTRACT NO. 534, BEING CONVEYED BY DEED OF RECORD IN INSTRUMENT NO. 21015717 OF THE OFFICIAL PUBLIC RECORDS, HAYS COUNTY, TEXAS DO HEREBY SUBDIVIDE SAID 9.13 ACRES IN ACCORDANCE WITH THE MAP OR PLAT ATTACHED HERETO, TO BE KNOWN AS:

WHISPERING OAKS SUBDIVISION

AND DO HEREBY DEDICATE TO THE PUBLIC THE USE OF ALL STREETS AND EASEMENTS SHOWN HEREON, SUBJECT TO ANY AND ALL EASEMENTS OR RESTRICTIONS HERETOFORE GRANTED AND NOT RELEASED.

WITNESS MY HAND, THIS THE _____DAY OF_____, 20__ A.D.

_____
RAMIE GONZALEZ
10108 TWIN LAKE LOOP
DRIPPING SPRINGS, TX 78620

_____
VINCE A. GONZALEZ
10108 TWIN LAKE LOOP
DRIPPING SPRINGS, TX 78620

BEFORE ME, THE UNDERSIGNED AUTHORITY PERSONALLY APPEARED RAMIE GONZALEZ AND VINCE A. GONZALEZ, KNOWN TO ME TO BE THE PERSONS WHOSE NAMES ARE SWORN AND SUBSCRIBED TO THIS INSTRUMENT, AND ACKNOWLEDGED TO ME THAT THEY HAVE EXECUTED THE SAME FOR THE PURPOSE AND CONSIDERATION THEREIN EXPRESSED, AND IN THE CAPACITY THEREIN STATED.

WITNESS MY HAND AND SEAL OF OFFICE, THIS THE _____DAY OF_____, 20__ A.D.

_____ _____
NOTARY PUBLIC, STATE OF TEXAS PRINTED NAME

_____
EXPIRATION DATE

SEWAGE DISPOSAL/INDIVIDUAL WATER SUPPLY CERTIFICATION, TO-WIT:

NO STRUCTURE IN THIS SUBDIVISION SHALL BE OCCUPIED UNTIL CONNECTED TO AN INDIVIDUAL WATER SUPPLY OR A STATE APPROVED COMMUNITY WATER SYSTEM. DUE TO DECLINING WATER SUPPLIES AND DIMINISHING WATER QUALITY, PROSPECTIVE PROPERTY OWNERS ARE CAUTIONED BY HAYS COUNTY TO QUESTION THE SELLER CONCERNING GROUND WATER AVAILABILITY. RAIN WATER COLLECTION IS ENCOURAGED AND IN SOME AREAS MAY OFFER THE BEST RENEWABLE WATER RESOURCE.

NO STRUCTURE IN THIS SUBDIVISION SHALL BE OCCUPIED UNTIL CONNECTED TO A PUBLIC SEWER SYSTEM OR TO AN ON-SITE WASTEWATER SYSTEM WHICH HAS BEEN APPROVED AND PERMITTED BY HAYS COUNTY DEVELOPMENT SERVICES DEPARTMENT.

NO CONSTRUCTION OR OTHER DEVELOPMENT WITHIN THIS SUBDIVISION MAY BEGIN UNTIL ALL HAYS COUNTY DEVELOPMENT AUTHORIZATION REQUIREMENTS HAVE BEEN SATISFIED.

_____ _____
MARCUS PACHECO, DIRECTOR ERIC VAN GAASBEEK, R.S., C.F.M.
HAYS COUNTY DEVELOPMENT FLOODPLAIN ADMINISTRATOR
SERVICES DEPARTMENT

STATE OF TEXAS
COUNTY OF HAYS

I, ELAINE H. CARDENAS, COUNTY CLERK OF HAYS COUNTY, TEXAS, DO HEREBY CERTIFY THAT ON THE _____ DAY OF _____, 20__ A.D., THE COMMISSIONERS COURT OF HAYS COUNTY, TEXAS, PASSED AN ORDER AUTHORIZING THE FILING FOR RECORD OF THIS PLAT, AND SAID ORDER HAS BEEN DULY ENTERED IN THE MINUTES OF THE SAID COURT INSTRUMENT NUMBER _____.

WITNESS MY HAND AND SEAL OF OFFICE, THE _____ DAY OF _____, 20__ A.D.

_____
RUBEN BECERRA
COUNTY JUDGE
HAYS COUNTY, TEXAS

_____
ELAINE H. CARDENAS
COUNTY CLERK
HAYS COUNTY, TEXAS

STATE OF TEXAS
COUNTY OF HAYS

I, ELAINE H. CARDENAS, COUNTY CLERK OF HAYS COUNTY, TEXAS, DO HEREBY CERTIFY THAT THE FOREGOING INSTRUMENT OF WRITING WITH ITS CERTIFICATES OF AUTHENTICATION WAS FILED FOR RECORD IN MY OFFICE ON THE _____ DAY OF_____, 20__ A.D., AT _____O'CLOCK__M. IN THE PLAT RECORDS OF HAYS COUNTY, TEXAS IN INSTRUMENT NUMBER _____.

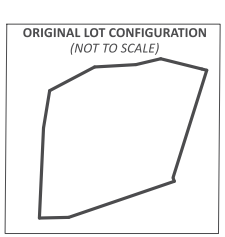
_____
ELAINE H. CARDENAS
COUNTY CLERK
HAYS COUNTY, TEXAS

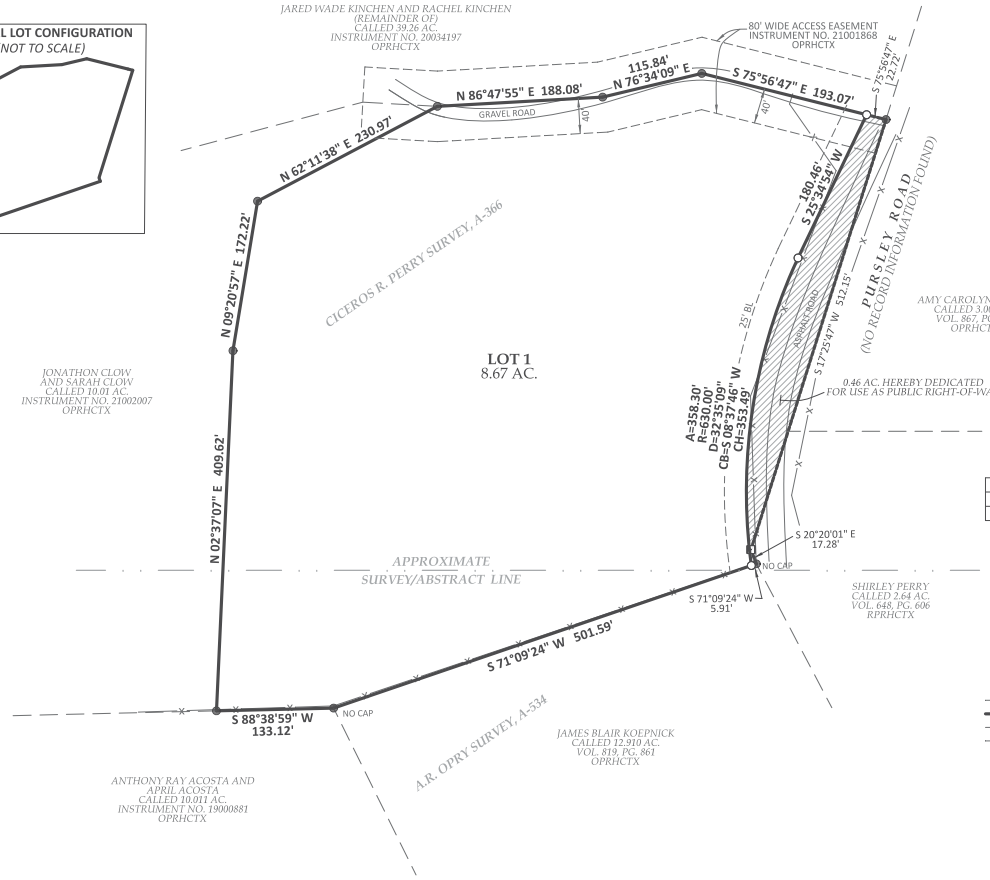
SURVEYOR'S CERTIFICATION:
I, WILLIAM R. HERRING, HEREBY CERTIFY THAT THIS PLAT WAS PREPARED FROM AN ON-THE-GROUND SURVEY OF THE PROPERTY SHOWN HEREON, CONDUCTED UNDER MY SUPERVISION, AND THAT THE CORNER MONUMENTS SHOWN HEREON WERE FOUND OR PLACED UNDER MY SUPERVISION.

PRELIMINARY, THIS DOCUMENT SHALL NOT BE RECORDED FOR ANY PURPOSE AND SHALL NOT BE USED OR VIEWED OR RELIED UPON AS A FINAL SURVEY DOCUMENT

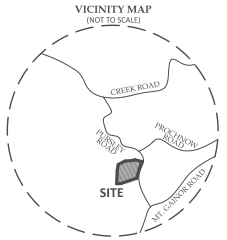
_____ _____
WILLIAM R. HERRING DATE
REGISTERED PROFESSIONAL LAND SURVEYOR
NO. 6355 - STATE OF TEXAS

ORIGINAL LOT CONFIGURATION
(NOT TO SCALE)





VICINITY MAP
(NOT TO SCALE)



LOT SUMMARY		
LOT	ACREAGE	ROADWAY FRONTAGE (FT)
1	8.67	533.95

LEGEND

- 5/8" IRON ROD W/ "WHITECAP SURVEY" CAP FOUND (UNLESS NOTED)
- 5/8" IRON ROD W/ "WHITECAP SURVEY" CAP SET
- COTTON SPINDLE FOUND
- WIRE FENCE
- LOT BOUNDARY LINE
- ADJOINER BOUNDARY LINE
- EASEMENT LINE
- OPRHCTX OFFICIAL PUBLIC RECORDS HAYS COUNTY, TEXAS
- RPRHCTX REAL PROPERTY RECORDS HAYS COUNTY, TEXAS

PLAT NOTES:

1. BEARING BASIS IS GRID NORTH, TEXAS COORDINATE SYSTEM, NAD83 (2011) SOUTH CENTRAL ZONE. UNITS = US SURVEY FEET.

2. THIS PLAT LIES WITHIN ZONE "X", AS IDENTIFIED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA), ACCORDING TO FEMA MAP NO. 48209C0095F, DATED SEPTEMBER 2, 2005. THIS STATEMENT IS DERIVED SOLELY UPON THE ABOVE LISTED FEMA MAP AND IS NOT A GUARANTEE THE SUBJECT TRACT WILL OR WILL NOT FLOOD.

3. THIS PLAT LIES WITHIN THE BOUNDARIES OF THE EDWARDS AQUIFER CONTRIBUTING ZONE. NO PORTION OF THIS PLAT LIES WITHIN THE BOUNDARIES OF THE EDWARDS AQUIFER RECHRAGE ZONE.

4. THIS PLAT LIES WITHIN THE HAYS TRINITY GROUNDWATER CONSERVATION DISTRICT.

5. NO PORTION OF THIS PLAT LIES WITHIN THE BOUNDARIES OF THE E.T.J. OF ANY INCORPORATED MUNICIPALITY.

6. THIS PLAT IS LOCATED WITHIN THE BOUNDARY OF THE DRIPPING SPRINGS INDEPENDENT SCHOOL DISTRICT.

7. WATER SERVICE WILL BE PROVIDED TO EACH LOT FROM PRIVATE WATER WELLS OR RAINWATER COLLECTION.

8. ELECTRIC SERVICE WILL BE PROVIDED BY THE PEDERNALES ELECTRIC COOPERATIVE.

9. UNDER DEPARTMENT REGULATIONS, THIS SUBDIVISION IS EXEMPT FROM THE REQUIREMENTS TO DEMONSTRATE THE AVAILABILITY OF WATER SERVICE. FURTHER SUBDIVISION IS PROHIBITED FOR A DURATION OF FIVE (5) YEARS FOLLOWING THE FILING OF THE PLAT.

10. A 20' PUBLIC UTILITY EASEMENT SHALL BE DEDICATED ADJACENT TO THE RIGHT-OF-WAYS OF ALL STREETS IN THIS SUBDIVISION.

11. DRIVEWAYS SHALL COMPLY WITH CHAPTER 721 OF THE HAYS COUNTY DEVELOPMENT REGULATIONS, AND BE PERMITTED THROUGH THE TRANSPORTATION DEPARTMENT OF HAYS COUNTY UNDER CHAPTER 751.

12. WASTEWATER TREATMENT FOR THIS SUBDIVISION IS TO BE PROVIDED BY INDIVIDUAL ADVANCED ON-SITE SEWAGE FACILITIES APPROVED BY HAYS COUNTY DEVELOPMENT SERVICES.

PLAT NOTES (CONT.):

13. IN ORDER TO PROMOTE SAFE USE OF ROADWAYS AND PRESERVE THE CONDITIONS OF PUBLIC ROADWAYS, NO DRIVEWAY CONSTRUCTED ON ANY LOT WITHIN THIS SUBDIVISION SHALL BE PERMITTED TO ACCESS ONTO A PUBLICLY DEDICATED ROADWAY UNLESS (A) A DRIVEWAY PERMIT HAS BEEN ISSUED BY THE ROAD DEPARTMENT OF HAYS COUNTY AND (B) THE DRIVEWAY SATISFIES THE MINIMUM SPACING REQUIREMENT FOR DRIVEWAYS SET FORTH SECTIONS 7.4 AND 7.5 OF THE HAYS COUNTY DEVELOPMENT REGULATIONS, CHAPTER 721.

14. THIS SUBDIVISION LIES WITHIN HAYS COUNTY ESD #1 AND ESD #6.

15. ALL CULVERTS, WHEN REQUIRED SHALL COMPLY WITH THE CURRENT HAYS COUNTY STANDARD.

16. MAIL BOXES PLACED WITHIN THE ROW, SHALL BE OF AN APPROVED TXDOT OR FHWA DESIGN, PER HAYS COUNTY DEVELOPMENT REGULATIONS, CHAPTER 721, SUBCHAPTER 2.01.

17. NUMBER OF LOTS IN THIS PLAT - 1
AVERAGE SIZE OF LOTS - 8.67 AC.
NUMBER OF LOTS SMALLER THAN 1 AC. - 0
NUMBER OF LOTS LARGER THAN 1.0 AC. BUT SMALLER THAN 2.0 AC. - 0
NUMBER OF LOTS LARGER THAN 2.0 AC. BUT SMALLER THAN 5.0 AC. - 0
NUMBER OF LOTS LARGER THAN 5.0 AC. BUT SMALLER THAN 10 AC. - 1
NUMBER OF LOTS LARGER THAN 10 AC. - 0

WHITECAP SURVEY COMPANY, LLC
TBPELS FIRM NO. 10194424
PO BOX 1225
DRIPPING SPRINGS,TX 78620
(512) 808-0102
EMAIL: INFO@WHITECAPSURVEY.COM

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Discussion and possible action to accept the renaming of a street name as originally platted in Sunset Canyon, Section II-C Subdivision.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
ACTION-MISCELLANEOUS	January 18, 2022	

LINE ITEM NUMBER

AUDITOR USE ONLY

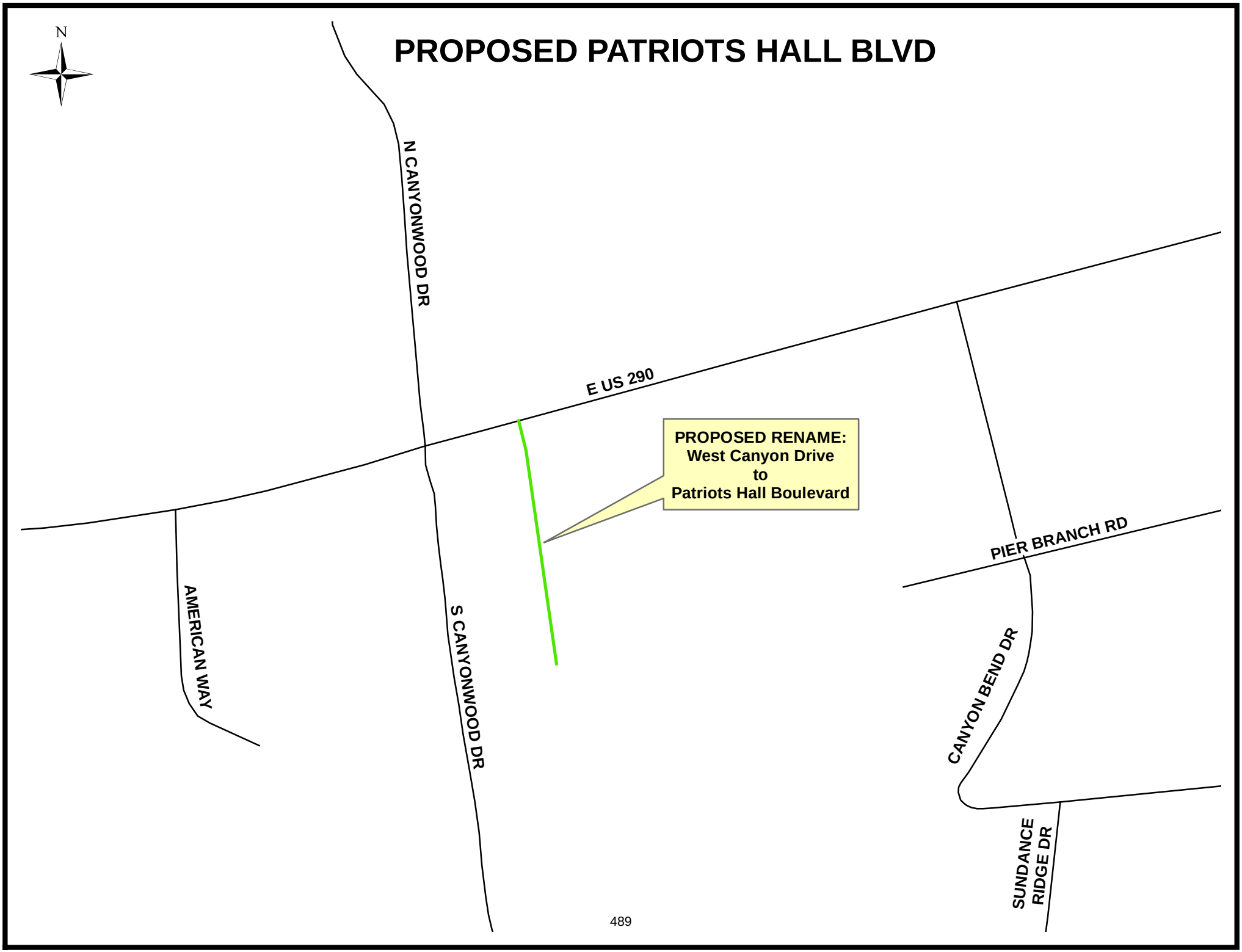
AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR REVIEW:** N/A

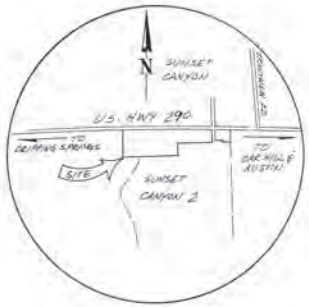
REQUESTED BY	SPONSOR	CO-SPONSOR
PACHECO	SMITH	N/A

SUMMARY

The Development Services Department request that the court approve renaming of West Canyon Drive found in the Sunset Canyon, Section II-C Subdivision plat (Instrument # 00003523) to Patriots Hall Boulevard. The property owner has established the request and the new proposed name was verified with the Hays County GIS Department. Staff believes the name change will benefit emergency response and prevent any future confusion or issues regarding public safety.


PROPOSED PATRIOTS HALL BLVD
N
N CANYONWOOD DR
E US 290
PROPOSED RENAME:
West Canyon Drive
to
Patriots Hall Boulevard
PIER BRANCH RD
AMERICAN WAY
S CANYONWOOD DR
CANYON BEND DR
SUNDANCE RIDGE DR

Vol. 3 pg 397



LOCATION MAP
NOT TO SCALE

W. WALKER SUR. 130

U. S. HWY. 290

SUNSET CANYON SECTION II-C

CURVE DATA

	1	2	3	4	5	6	7	8
I	82°35'15"	97°24'45"	90°00'	97°15'02"	82°44'58"	95°33'20"	88°42'34"	91°17'26"
R	15.00'	15.00'	15.00'	15.00'	15.00'	20.00'	15.00'	15.00'
T	13.17'	17.08'	15.00'	17.03'	13.21'	22.04'	14.67'	15.34'
A	21.62'	25.50'	23.56'	25.46'	21.66	33.36'	23.22'	23.90'
C	19.80'	22.54'	21.21'	22.51'	19.83'	29.62'	20.97'	21.45'

LEGEND
- ● IRON PIN FOUND
- ○ IRON PIN SET
- ■ CON. MONUMENT FOUND
- □ CON. MONUMENT SET

OWNER: THE JACKSON COMPANY
4000 HWY. 290 EAST
DRIPPING SPRINGS, TEXAS
78620

TOTAL ACREAGE IN SUBDIVION: 50.4497 AC.

TOTAL NO. OF LOTS: 25

TOTAL LENGTHS OF ROADS: 2672.77 LIN. FT.

TOTAL AREA WITHIN RIGHT OF WAYS: 3.6896 AC.

AUS. 85' JC

OAK HILL SURVEYING COMPANY, INC.
6120 HWY 290 WEST
AUSTIN, TEXAS 78735
PH. (512) 892-5320

SHEET 1 OF 2 JOB NO. 85-30

STATE OF TEXAS
COUNTY OF HAYS

KNOW ALL MEN BY THESE PRESENTS: That The Jackson Company, a corporation organized and existing under the laws of the State of Texas, with its home address at 4000 HWY 290 East, Dripping Springs, Texas, owners of 50.4497 acres of land out of the William Walker Survey 130, & I & G.N. Railroad Survey in Hays County, Texas as conveyed to it by deed dated MAR 11,85, and recorded in Volume 390, Page 566, of the Hays County Deed Records, DOES HEREBY SUBDIVIDE 50.4497 acres of land out of the William Walker Survey 130, & I & G.N. Railroad Survey to be known as the SUNSET CANYON SECTION II C, in accordance with the plat shown hereon, subject to any and all easements or restrictions heretofore granted, and does hereby dedicate to the public the use of the streets and easements shown hereon.

IN WITNESS WHEREOF the said The Jackson Company has caused these presents to be executed by its President, L.O. Jackson, thereunto duly authorized, this the 6 day of Sept, A.D., 19 85.

The Jackson Company

L.O. Jackson

L.O. Jackson, President

STATE OF TEXAS
COUNTY OF HAYS

Before me, the undersigned authority, on this day personally appeared L.O. Jackson known to me to be the person whose name is subscribed to the foregoing instrument as President of The Jackson Company and acknowledged to me that he executed the same in such capacity as the act and deed of said corporation for the purposes and considerations therein stated.

Given under my hand and seal of office this the 6 day of Sept, A.D., 19 85

Hilda Garcia

NOTARY PUBLIC in and for HAYS County, Texas

In approving this plat by the Commissioners Court of Hays County, Texas it is understood that the building of all streets, roads and other public thoroughfares delineated and shown on this plat and all bridges and culverts necessary to be constructed or placed in such streets, roads, or other public thoroughfares, or in connection therewith shall be the responsibility of the owner and/or the developer of the tract of land covered by this plat in accordance with plans and specifications prescribed by the Commissioners Court of Hays County, Texas, and the Commissioners Court of Hays County, Texas, assumes no obligation to build the streets, roads, or other public thoroughfares shown on this plat, or of construction any bridges, or culverts in connection therewith.

STATE OF TEXAS
COUNTY TO HAYS

I, LYDELL B. CLAYTON, COUNTY CLERK OF HAYS COUNTY, TEXAS, do hereby certify that on the 9th day of September A.D., 1985, the Commissioners Court of Hays County, Texas passed an order authorizing the filing for record of this plat, and said order has been duly entered in the minutes of the said Court in Book M, Page ____.

WITNESS MY HAND AND SEAL OF OFFICE this the 9th day of September, A.D., 1985.

Walter Burnett

WALTER BURNETT
COUNTY JUDGE
HAYS COUNTY, TEXAS

Lydell B. Clayton

LYDELL B. CLAYTON
COUNTY CLERK
HAYS COUNTY, TEXAS

STATE OF TEXAS
COUNTY OF HAYS

21576

I, LYDELL B. CLAYTON, COUNTY CLERK OF HAYS COUNTY, TEXAS, do hereby certify that the foregoing instrument of writing with its certificate of authentication was filed for record in my office on the 12th day of Sept A.D. 1985, at 1:10 o'clock P.M., and duly recorded on the 12th day of Sept, A.D. 1985 at 1:15 o'clock P .M., in the Plat Records of Hays County, Texas, in Book 3, Page 347-348.

WITNESS MY HAND AND SEAL OF OFFICE this the 12th day of Sept, A.D., 1985

Lydell B. Clayton, Deputy

LYDELL B. CLAYTON, COUNTY CLERK,
HAYS COUNTY, TEXAS

No structure in this subdivision shall be occupied until connected to a Public Sewer System or to an individual Sewage Disposal System which has been approved and permitted by the San Marcos-Hays County Health Department.

Terry Ewald

Terry Ewald, Sanitarian
San Marcos-Hays County Health Dept.

9-9-85

Date

STATE OF TEXAS
COUNTY OF HAYS

KNOW ALL MEN BY THESE PRESENTS: I, the undersigned, a Registered Public Surveyor in the State of Texas, hereby certify that this plat is true and correctly made and is prepared from an actual survey of the property made under my supervision on the ground and that the corner monuments were properly placed under my supervision.

Jimmy F. Johnson

Jimmy F. Johnson
Reg. Public Surveyor No. 4018

Rec 85' AC

OAK HILL SURVEYING COMPANY, INC.
6120 HWY 290 WEST
AUSTIN, TEXAS 78735
PH. (512) 892-5320

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Discussion and possible action to approve the Joint Election Resolution for the conduct of the Joint Primary Election being held by the Republican Party and Democratic Party on March 1, 2022.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
ACTION-MISCELLANEOUS	January 18, 2022	

LINE ITEM NUMBER

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR REVIEW:** N/A

REQUESTED BY	SPONSOR	CO-SPONSOR
Jennifer Anderson	INGALSBE	N/A

SUMMARY

Pursuant to Sec. 172.126 of the Texas Election Code the Joint Election Agreement must be approved by a majority vote of the full Hays County Commissioners Court. The Agreement has been agreed upon by the county chairs of both parties and the Elections Administrator.

Joint Election Resolution

Hays County Political Parties

This Joint Election Agreement ("Agreement") is made and entered into by and between the Hays County Democratic Party and the Hays County Republican Party located within hays County, Texas (the "County").

WHEREAS, the undersigned political parties, collectively referred to hereafter as the "Political Parties", each anticipate holding election(s) from February 2022 to July 2022; and

WHEREAS, each of the Political Parties is located partially or entirely within Hays County, Texas (the "County"); and

WHEREAS, Texas Election Code, Chapter 271, authorizes political subdivisions of the State of Texas to hold elections jointly in voting precincts if it will be of benefit to the citizens and voters thereof to be served by common polling places and elections are ordered by authorities of two or more political subdivisions to be held on the same day in all or part of the same territory; and

WHEREAS, Texas Government Code, Chapter 791, authorizes local governments to contract with one another and with agencies of the state for various governmental functions including those in which the contracting parties are mutually interested; and,

WHEREAS, The County Elections Official is contracting with each Political Party to conduct and provide elections services for the Political Parties election(s) from March 2022 to July 2022; and

WHEREAS, the Political Parties all desire to enter into a joint election agreement for the purpose of sharing election equipment, costs, services of election officials and sharing precincts polling locations and election ballots where appropriate; and,

NOW THEREFORE, pursuant to Chapter 31 of the Texas Election Code, Chapter 791 of the Texas Government Code and Section 271.002 and 271.003 of the Texas Election code, the Joint Election Agreement set forth below is entered into by and between the Political Parties acting by and through their respective governing bodies agree as follows:

I. **Scope of Joint Election Agreement**. The Political Parties enter this Joint Election Agreement ("Agreement") for the conduct of the elections to be held from February 2022 to July 2022.

II. **Appoint Election Officer.** The Political Parties appoint the Hays County Elections Administrator to serve as the election Officer for each Political Party in order to perform and supervise the duties and responsibilities of the Election Officer for any election from February 2022 to July 2022.

III. **Early Voting Polling Locations.** The costs incurred with Early Voting and Early Voting Clerks will be paid by Hays County.

IV. **Election Day Polling Locations.** Election Day voting shall be held in established vote centers where appropriate at the dates, times, and locations recommended by the Election Officer and authorized and ordered by the governing body of each Political Party. Those will be decided within one week after the last day to order an election.

V. **Cost Sharing.** The Political Parties agree to the cost sharing provisions below.

VI. **Effective Date.** This Agreement becomes effective upon execution by the participating Political Parties.

VII. **Amendments.** This Agreement may not be amended or modified except in writing and executed by each Political Party.

COST SHARING – March Primary and Resulting Runoff Election

I. The following expenses will be shared equally by both Political Parties holding an election.
   a. Notice in newspaper
   b. Supplies for logic and accuracy testing
   c. Supplies for conducting by mail voting
   d. Costs of printing materials for conventions
   e. Ballot programming
   f. All consumable election supplies
   g. Election Day Vote Center rental
   h. Election Day Poll Workers
   i. Early Voting Ballot Board/Signature Verification Members
   j. Temporary Central Count/Intake Workers

II. Expenses will be based on actual cost and amounts statutorily defined by the Texas Election Code. All expenses will be reported by and paid by the Texas Secretary of State Primary Finance Portal.

III. It is acknowledged that cost sharing expenses will fluctuate depending upon the number of required polling locations, poll workers, and other temporary staff.

A cost estimate was submitted through the Primary Finance Portal on November 9, 2021 for your review. Final expenses will be reported upon the conclusion of the Primary Election and any resulting runoff election.

APPROVED BY GOVERNING BODY OF Hays County Democratic Party and Hays County Republican Party in the meeting held the 2nd day of December, 2021 and executed by its authorized representative.

Dr. Mark Trahan
Democratic Party Chair

Bob Parks
Republican Party Chair

Acknowledged by:

Jennifer Anderson

Election Administrator, Hays County, Texas

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Discussion and possible action to award RFP 2021-P04 Medical Services: Jail & Juvenile Detention Center to Wellpath, LLC.; and authorize staff and General Counsel to negotiate a contract.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
ACTION-MISCELLANEOUS	January 18, 2022	N/A

LINE ITEM NUMBER

N/A

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR REVIEW:** N/A

REQUESTED BY	SPONSOR	CO-SPONSOR
Gary Cutler & Brett Littlejohn	INGALSBE	N/A

SUMMARY

On September 21, 2021 Commissioners Court approved specifications and authorized Purchasing to solicit for Medical Services for the Jail and the Juvenile Detention Center. Purchasing received responses from the following firms:

TurnKey Health Clinics, LLC.
Wellpath, LLC.

After evaluation of the proposals, the evaluation committee's recommendation is to pursue negotiations with Wellpath, LLC. Upon successful negotiations, a contract will be brought back before court to approve and finalize contract award.

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court
Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Discussion and possible action to award contract for IFB 2022-B05 Countywide Portable Toilets and Handwashing Stations Rental Services to United Site Services of Texas, Inc.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
ACTION-MISCELLANEOUS	January 18, 2022	

LINE ITEM NUMBER

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: YES **AUDITOR REVIEW:** MARISOL VILLARREAL-ALONZO

REQUESTED BY	SPONSOR	CO-SPONSOR
Tammy Crumley	BECERRA	N/A

SUMMARY

Purchasing received two bids pursuant to IFB 2022-B05 Countywide Portable Toilets and Handwashing Stations Rental Services. Purchasing received the following two bids:

Texas Disposal Systems, Inc. $2,060.00 (monthly)
United Site Services of Texas, Inc. $1,994.00 (monthly)

It is the staff's recommendation to award the contract to United Site Services of Texas, Inc.

Attached:
IFB 2022-B06 Countywide Portable Toilets and Handwashing Stations Rental Services, United Site Services of Texas, Inc. Contract
IFB 2022-B06 Bid Tab

SOLICITATION, OFFER AND AWARD

Hays County Auditor
Purchasing Office
712 S. Stagecoach Trail, Suite 1071
San Marcos, Texas 78666

Solicitation No.: IFB 2022-B05 Countywide Portable Toilets and Hand Washing Stations Rental Services	**Date Issued: November 30, 2021**

SOLICITATION

Respondents must submit proposals as listed: one (1) original and one (1) digital copy on a thumb drive at the Hays County Purchasing Office at the address shown above or Electronically through BidNet Direct until:
2:00 p.m. local time December 21, 2021.
Proposals received after the time and date set for submission will be returned unopened.

For information please email: purchasing@co.hays.tx.us	Questions concerning this IFB must be received in writing no later than 5:00 on December 8, 2021.	Phone No.: (512) 393-2283

OFFER (Must be fully completed by Respondent)

In compliance with the above, the undersigned offers and agrees to furnish all items or services awarded at the prices stipulated for each item delivered at the designated point(s) and within the time specified herein. Award shall include all solicitation documents and attachments.

MANUALLY SIGN ALL COPIES SUBMITTED. SIGNATURE IS MANDATORY.

Respondent		Respondent's Authorized Representative	
Entity Name: Mailing Address:	United Site Services of Texas, Inc	Name:	Jeff Dunlop
		Title:	Vice President
		Email Address:	Mark.Lemley@unitedsiteservices.com
		Phone No.:	737-243-2719
Signature:		Date:	12/15/2021
Name, Email Address and Phone No. of person authorized to conduct negotiations on behalf of Respondent:	Mark Lemley Mark.Lemley@unitedsiteservices.com 737-243-2719		

NOTICE OF AWARD (To be completed by County)

Funding Source:	Awarded as to item(s):	Contract Amount:
	all items on bid sheet	per bid sheet
Vendor: United Site Services of Texas Inc.		Term of Contract: 1yr w/ (4) 1yr. renewals
This contract issued pursuant to award made by Commissioners Court on:	Date: January 18, 2022	Agenda Item:

Important: Award notice may be made on this form or by other Authorized official written notice.

Hays County Judge	Date
Hays County Clerk	Date

I. IFB Submittal Checklist

This checklist is provided for the Vendor's convenience and identifies the documents that MUST be submitted for the bid/proposal to be considered responsive, as well as the required forms requested by Hays County.

A COMPLETE SOLICITATION RESPONSE PACKAGE INCLUDES:

The following forms MUST be returned for the bid/proposal to be considered responsive:

_X_ 1. Solicitation, Offer and Award Form completed and signed

_X_ 2. Mandatory Bid Form: Attachment A

_X_ 3. Vendor Reference Form

Required Forms by Hays County:

_X_ 1. Conflict of Interest Questionnaire completed and signed

_X_ 2. Code of Ethics signed

_X_ 3. HUB Practices signed

_X_ 4. House Bill 89 Verification signed and notarized

_X_ 5. Senate Bill 252 Certification

_X_ 6. Debarment & Licensing Certification signed and notarized

_X_ 7. Vendor/Bidder's Affirmation completed and signed

_X_ 8. Related Party Disclosure Form

_X_ 9. Federal Affirmations and Solicitation Acceptance

_X_ 10. FHWA 1273 Certification

_X_ 11. Any addenda applicable to this solicitation

Hays County will accept bids, by the stated due date by one of the following methods:

____ 1. Electronic Submission of Bid Packet through BidNet Direct and one (1) hard copy or

_X_ 2. One original of the proposal and a digital copy on a thumb drive in a sealed envelope with the Solicitation Number and Vendor's Name on the outermost envelope, addressed to:

Hays County Purchasing
712 S Stagecoach Trail, Suite 1071
San Marcos, TX 78666

V. Vendor Reference Form

Please list three (3) references of current customers who can verify the quality of service your company provides. The County prefers customers of similar size and scope of work to this proposal/bid. **This form must be returned with your bid/proposal.**

REFERENCE ONE

Company Name: TXDOT

Address: 780 Bastrap Hwy Austin, TX 78741

Contact Person and Title: Mikayla Adare

Phone Number: 512-832-7054

Scope & Duration of Contract: 2 years

REFERENCE TWO

Company Name: City of Austin

Address: 7311 Decker Ln Austin, 78724

Contact Person and Title: Lee Dawson

Phone Number: 512-974-2500

Scope & Duration of Contract: 2 year

REFERENCE THREE

Company Name: West Travis Couonty

Address: 12004 W Hwy 290 Austin, TX 78736

Contact Person and Title: Joey Fuentez

Phone Number: 512-921-2566

Scope & Duration of Contract: 1 year

VII. Conflict of Interest Questionnaire

CONFLICT OF INTEREST QUESTIONNAIRE — FORM CIQ

For vendor doing business with local governmental entity

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. *See* Section 176.006(a-1), Local Government Code.

A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

OFFICE USE ONLY
Date Received

1 **Name of vendor who has a business relationship with local governmental entity.**

Not Applicable

2 ☐ **Check this box if you are filing an update to a previously filed questionnaire.** (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 **Name of local government officer about whom the information is being disclosed.**

_____
Name of Officer

4 **Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.**

A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?

☐ Yes ☐ No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?

☐ Yes ☐ No

5 **Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.**

6 ☐ Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).

7 _____ 12/15/2021
Signature of vendor doing business with the governmental entity — Date

Form provided by Texas Ethics Commission — www.ethics.state.tx.us — Revised 11/30/2015

VIII. CODE OF ETHICS FOR HAYS COUNTY

Public employment is a public trust. It is the policy of Hays County to promote and balance the objective of protecting government integrity and the objective of facilitating the recruitment and retention of personnel needed by Hays County. Such a policy implemented by prescribing essential standards of ethical conduct without creating unnecessary obstacles to entering public services.

Public servants must discharge their duties impartially so as to assure fair competitive access to governmental procurement by responsible contractors. Moreover, they should conduct themselves in such a manner as to foster public confidence in the integrity of the Hays County procurement organization.

To achieve the purpose of this article, it is essential that those doing business with Hays County also observe the ethical standards prescribed here.

It shall be a breach of ethics to attempt to influence any public employee, elected official or department head to breach the standards of ethical conduct set forth in this code.

It shall be a breach of ethics for any employee of Hays County or a vendor doing business with the county to participate directly or indirectly in a procurement when the employee or vendor knows that:

The employee or any member of the employee's immediate family, or household has a substantial financial interest pertaining to the procurement. This means ownership of 10% or more of the company involved and/or ownership of stock or other interest or such valued at $2500.00 or more.

A business or organization in which the employee, or any member of the employee's immediate family, has a financial interest pertaining to the procurement.

Gratuities: It shall be a breach of ethics to offer, give or agree to give any employee of Hays County or for any employee to solicit, demand, accept or agree to accept from a vendor, a gratuity of consequence or any 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 controversy, any particular matter pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefore pending before this government.

Kickbacks: 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 Hays County as an inducement for the award of a contract or order.

Contract Clause: The prohibition against gratuities and kickbacks prescribed above shall be conspicuously set forth in every contract and solicitation therefore.

Any effort to influence any employee, elected official, or department head to violate the standards of the code is grounds to void the contract. Please certify, by your signature below, that you understand the ethics policy of Hays County and in no way will attempt to violate the code.

SIGNATURE: _____

PRINT NAME & TITLE: Jeff Dunlop Vice President

COMPANY NAME: United Site Services of Texas, Inc

IX. Hays County Practices Related to Historically Underutilized Businesses

1. STATEMENT OF PRACTICES

Hays County will strive to ensure that all businesses, regardless of size, economic, social or ethnic status have an equal opportunity to participate in the County's procurement processes. The County is committed to promote full and equal business opportunity for all businesses to supply the goods and services needed to support the mission and operations of county government, and seeks to encourage the use of certified historically underutilized businesses (HUB's) through the use of race, ethnic and gender neutral means. It is the practice of Hays County to involve certified HUBs to the greatest extent feasible in the County's procurement of goods, equipment, services and construction projects while maintaining competition and quality of work standards. The County affirms the good faith efforts who recognize and practice similar business standards.

2. DEFINITIONS

Historically underutilized businesses (HUBs), also known as a disadvantaged business enterprise (DBE), are generally business enterprises at least 51% of which is owned and the management and daily business operations are controlled by one or more persons who is/are socially and economically disadvantaged because of his/her identification as a member of certain groups, including women, Black Americans, Mexican Americans, and other Americans if Hispanic origin, Asian Americans and American Indians.

Businesses include firms, corporations, sole proprietorships, vendors, suppliers, contractors, subcontractors, professionals and other similar references when referring to a business that provides goods and/or services regardless of the commodity category.

Certified HUB's include business enterprises that meet the definition of a HUB and who meet the certification requirements of certification agencies recognized by Hays County, as expressed below.

Statutory bid limit refers to the Texas Local Government Code provision that requires competitive bidding for many items valued at greater than $50,000.

3. GUIDELINES

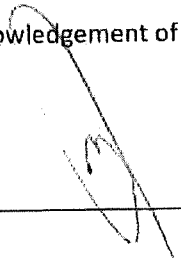
a. Hays County, its contractors, their subcontractors and suppliers, as well as all vendors of goods, equipment and services, shall not discriminate on the basis of race, color, creed, gender, age, religion, national origin, citizenship, mental or physical disability, veteran's status or political affiliation in the award and/or performance of contracts. All entities doing business or anticipating doing business with the County shall support, encourage and implement affirmative steps toward a common goal of establishing equal opportunity for all citizens and businesses of the County.

b. Vendors and/or contractors desiring to participate in the HUB program must successfully complete the certification process with the State of Texas or Texas Unified Certification Program. The vendor or contractor is also required to hold a current valid certification (title) from either of these entities.

c. Vendors and/or contractors must be registered with the State Comptroller's web-based HUB directory and with the Comptroller's Centralized Master Bidder's List (CMBL). Hays County will solicit bids from certified HUB's for state purchasing and public works contracts.

4. Hays County will actively seek and encourage HUBs to participate in all facets of the procurement process by:
    a. Continuing to increase and monitor a database of certified HUB vendors, professionals and contractors. The database will be expanded to include products, areas of expertise and capabilities of each HUB firm.
    b. Continuing to seek new communication links with HUB vendors, professionals and contractors to involve them in the procurement process.
    c. Continuing to advertise bids on the County's website and in the newspapers including newspapers that target socially and economically disadvantaged communities.
5. As prescribed by law, the purchase of one or more items costing in excess of the statutory bid limit must comply with the competitive bid process. Where possible, those bids will be structured to include and encourage the participation of HUB firms in the procurement process by:
    a. Division of proposed requisitions into reasonable lots in keeping with industry standards and competitive bid requirements.
    b. Where feasible, assessment of bond and insurance requirements and the designing of such requirements to reasonably permit more than one business to perform the work.
    c. Specifications of reasonable, realistic delivery schedules consistent with the County's actual requirements.
    d. Specifications, terms and conditions reflecting the County's actual requirements are clearly stated, and do not impose unreasonable or unnecessary contract requirements.
6. A HUB practice statement shall be included in all specifications. The County will consider the bidder's responsiveness to the HUB Practices in the evaluation of bids and proposals. Failure to demonstrate a good faith effort to comply with the County's HUB practices may result in a bid or proposal being considered non-responsive to specifications.
7. Nothing in this practice statement shall be construed to require the County to award a contract other than to the lowest responsive bidder as required by law. This practice is narrowly tailored in accordance with applicable law.

Please sign for acknowledgement of the Hays County HUB Practices:



Signature

12/15/2021

Date

X. Hays County House Bill 89 Verification

I, Jeff Dunlop (Person name), the undersigned representative of United Site Services of Texas, Inc (Company or Business name, hereafter referred to as Company) being an adult over the age of eighteen (18) years of age, after being duly sworn by the undersigned notary, do hereby depose and verify under oath that the company named above, under the provisions of Subtitle F, Title 10, Government Code Chapter 2270:

1. Does not boycott Israel currently; and
2. Will not boycott Israel during the term of the contract.

Pursuant to Section 2270.001, Texas Government Code:

1. *"Boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes; and*

2. *"Company" means a for-profit sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or any limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of those entities or business associations that exist to make a profit.*

Signature of Company Representative — Date: 12/15/2021

On this 15th day of December, 2021, personally appeared Jeff Dunlop, the above-named person, who after by me being duly sworn, did swear and confirm that the above is true and correct.

NOTARY SEAL

SEAN M.MCDOWELL
Notary Public
Commonwealth of Massachusetts
My Commission Expires
September 22, 2028

Notary Public in and for the State of ~~Texas~~ Massachusetts

12/15/2021
Date

XI. Hays County Purchasing Department Senate Bill 252 Certification

Pursuant to Texas Government Code, Chapter 2252, Section 2252.152 and Section 2252.153, certify that the company named below is not listed on the website of the Comptroller of the State of Texas concerning the listing of companies that are identified under Section 806.051, Section 807.051 or Section 2253.153. I further certify that should the above-named company enter into a contract that is on said listing of companies on the website of the Comptroller of the State of Texas which do business with Iran, Sudan or any Foreign Terrorist Organization, I will immediately notify the Hays County Purchasing Department.

United Site Services of Texas, Inc

Company Name

Jeff Dunlop

Print Name of Company Representative

Signature of Company Representative

12/15/2021

Date

CERTIFICATION CHECK PERFORMED BY HAYS COUNTY PURCHASING:

On this day, I, Stephanie Hunt, the Purchasing Representative for Hays County in San Marcos, Texas, pursuant to Texas Government Code, Chapter 2252, Section 2252.152 and Section 2252.153, certify that I did review the website of the Comptroller of the State of Texas concerning the listing of companies that is identified under Section 806.051, Section 807.051 or Section 2253.253 and I have ascertained that the above-named company is not contained on said listing of companies which do business with Iran, Sudan or any Foreign Terrorist Organization.

Stephanie Hunt

Print Name of Hays County Purchasing Representative

Stephanie Hunt

Signature of Hays County Purchasing Representative

12-21-21

Date

ITB 2022-B05

RFP or Vendor number

XII. Debarment and Licensing Certification

STATE OF ~~TEXAS~~ Massachusetts §

COUNTY OF ~~HAYS~~ Worcester §

I, the undersigned, being duly sworn or under penalty of perjury under the laws of the United States and the State of Texas, certifies that Firm named herein below and its principals:

a. Are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any federal department or agency;
b. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
c. Are not presently indicted for or otherwise criminally or civilly charged by a federal, state or local governmental entity with commission of any of the offenses enumerated in paragraph (1)(b) of this certification;
d. Have not within a three-year period preceding this application/proposal had one or more public (federal, state or local) transactions terminated for cause or default;
e. Are registered and licensed in the State of Texas to perform the professional services which are necessary for the project; and
f. Have not been disciplined or issued a formal reprimand by any State agency for professional accreditation within the past three years.

United Site Services of Texas, Inc
Name of Firm

Signature of Certifying Official

Vice President
Title of Certifying Official

Jeff Dunlop
Printed Name of Certifying Official

12/15/2021
Date

Where the Firm is unable to certify to any of the statements in this certification, such Firm shall attach an explanation to this certification.

SUBSCRIBED and sworn to before me the undersigned authority by Jeff Dunlop on this the day of December 15, 2021, on behalf of said Firm.

SEAN M.MCDOWELL
Notary Public
Commonwealth of Massachusetts
My Commission Expires
September 22, 2028

Notary Public in and for the State of ~~Texas~~ Massachusetts

My commission expires: September 22, 2028

XIII. Vendor/Bidder's Affirmation

1. Vendor/Bidder affirms that they are duly authorized to execute this Contract, that this company, corporation, firm, partnership or individual has not prepared this bid in collusion with any other bidder, and that the contents of this bid as to price, terms or conditions of said bid have not been communicated by the undersigned nor by any employee or agent to any other person engages in this type of business prior to the official opening of this bid.

2. Vendor/Bidder hereby assigns to Purchaser any and all claims for overcharges associated with this Contract which arise under the antitrust laws of the United States, 15 USCA Section 1 et seq., and which arise under the antitrust laws of the State of Texas, Tex. Bus. & Com. Code, Section 15.01, et seq.

3. Pursuant to 262.0276 (a) of the Texas Local Government Code, Vendor/Bidder, hereby affirms that Vendor/Bidder:

   _____ Does not own taxable property in Hays County, or;

   X Does not owe any ad valorem taxes to Hays County or is not otherwise indebted to Hays County

United Site Services of Texas, Inc
Name of Contracting Company

If taxable property is owned in Hays County, list property ID numbers:

_____

Signature of Company Official Authorizing Bid/Offer

Jeff Dunlop
Printed Name

Vice President
Title

Mark.Lemley@unitedsiteservices.com
Email Address

737-243-2719
Phone

XIV. Related Party Disclosure Form

Hays County strives to provide financial transparency to its taxpayers. Completion of this form will allow for added transparency into the procurement process by disclosing Vendor relationships with current or former Hays County employees. The existence of a relationship may not present a legal or ethical conflict for a Vendor. However, disclosure will allow for consideration of potential conflicts and/or ways to eliminate conflicts.

A Vendor who Employs any of the following is required to disclose the relationship on this form:

- Current Hays County employee (including elected or appointed official) (Complete Section A)
- Former Hays County employee who has been separated from Hays County for no less than four (4) years (including elected or appointed official) (Complete Section B)
- Person related within the 2nd degree of consanguinity or affinity to either of the above[1] (Complete Section C)

If no known relationships exist, complete Section D.

This form is required to be completed in full and submitted with the proposal package. A submitted proposal package that does not include this completed form will be considered non-responsive and will not be eligible for an award.

Section A: Current Hays County Employee

Employee Name Title

Section B: Former Hays County Employee

Employee Name Title Date of Separation from County

Section C: Person Related to Current or Former Hays County Employee

Employee or Former Employee Name Title

Name of Related Person Title Relationship

Section D: No Known Relationships

If no relationships in accordance with the above exist or are known to exist, provide a written explanation below:

United Site Services of Texas, Inc does not have any known Relationships with Hays County.

Attach additional pages if necessary.

I, the undersigned, hereby certify that the information provided is true and complete to the best of my knowledge.

United Site Services of Texas, Inc

Name of Vendor

Signature of Certifying Official

Vice President

Title of Certifying Official

Jeff Dunlop

Printed Name of Certifying Official

12/15/2021

Date

[1]A degree of relationship is determined under Texas Government Code Chapter 573. (as outlined below)

Relationship of Consanguinity				
	1st Degree	**2nd Degree**	**3rd Degree***	**4th Degree***
Person	child or parent	grandchild, sister, brother or grand-parent	great-grandchild, niece, nephew, aunt,* uncle* or great-grandparent	great-great-grandchild, grandniece, grandnephew, first cousin, great aunt,* great uncle* or great-great-grandparent
* An aunt, uncle, great aunt or great uncle is related to a person by consanguinity only if he or she is the sibling of the person's parent or grandparent.				

Relationship of Affinity		
	1st Degree	**2nd Degree**
Person	spouse, mother-in-law, father-in-law, son-in-law, daughter-in-law, stepson, stepdaughter, stepmother or stepfather	brother-in-law, sister-in-law, spouse's grandparent, spouse's grandchild, grandchild's spouse or spouse of grandparent

"Vendor" shall mean any individuals or entity that seeks to enter into a contract with Hays County.

"Employs" shall mean any relationship wherein Vendor has made arrangements to compensate an individual, directly or by way of a business organization in which the individual has a sharehold or ownership interest, even if that arrangement is contractual and/or on an hourly-charge basis.

XV. Federal Affirmations and Solicitation Acceptance

In the event federal funds are used for payment of part or all of the consideration due under any contract resulting from this Solicitation Response, Respondent must execute this **Federal Affirmation and Solicitation Acceptance**, which shall constitute an agreement, without exception, to the following affirmations:

1. **Debarment and Suspension**
   Respondent certifies, by signing this Attachment, that neither it nor any of its principals or subcontractors are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency. This certification is made pursuant to the OMB guidelines at 2 CFR 180 that implement Executive Order 12549 (3 C.F.R. Part 1986 Comp., p. 189) and 12689 (3 C.F.R. Part 1989 Comp., p. 235), Debarment and Suspension, 28 C.F.R. pt. 67, § 67.510, as published as pt. VII of the May 26, 1988, Federal Register (pp. 19160-19211), and any relevant program-specific regulations. This provision shall be required of every subcontractor receiving any payment in whole or in part from federal funds.

2. **Americans with Disabilities Act**
   Respondent and any potential subcontractors shall comply with all terms, conditions, and requirements of the Americans with Disabilities Act of 1990 (P.L. 101-136), 42 U.S.C. 12101, as amended, and regulations adopted thereunder contained in 28 C.F.R. 26.101-36.999, inclusive, and any relevant program- specific regulations.

3. **Discrimination**
   Respondent and any potential subcontractors shall comply with all Federal statutes relating to nondiscrimination. These include, but are not limited to:
   a. Title VI of the Civil Rights Act of 1964 (P.L. 88-352), which prohibits discrimination on the basis of race, color, or national origin;
   b. Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex;
   c. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps;
   d. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101- 6107), which prohibits discrimination on the basis of age;
   e. The Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse;
   f. The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism;
   g. Sections 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records;
   h. Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental, or financing of housing;
   i. Any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and
   j. The requirements of any other nondiscrimination statute(s) that may apply to the application.

4. **Equal Employment Opportunity**
   Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

5. **Wages**

Under the Davis Bacon Act, 40 U.S.C. 276a – 276a-5, as amended, and the regulations adopted thereunder contained in 29 C.F.R. pt. 1 and 5. When required by Federal program legislation, all prime construction contracts in excess of $2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). Respondent and any potential subcontractors have a duty to and shall pay the prevailing wage rate specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

6. **Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708)**
Where applicable, all contracts awarded by the non-Federal entity in excess of $100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

7. Contracts for more than the simplified acquisition threshold currently set at $150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

8. All contracts in excess of $10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be affected and the basis for settlement.

9. **Lobbying**
If Respondent, in connection with any resulting contract from this Solicitation, is a recipient of a Federal contract, grant, or cooperative agreement exceeding $100,000 or a Federal loan or loan guarantee exceeding $150,000, the Contractor shall comply with the requirements of the new restrictions on lobbying contained in Section 1352, Title 31 of the U.S. Code, which are implemented in 15 CFR Part 28. Respondent shall require that the certification language of Section 1352, Title 31 of the U.S. Code be included in the award documents for all subcontracts and require that all subcontractors submit certification and disclosure forms accordingly. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

10. **Rights to Inventions Made Under a Contract or Agreement**
If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

11. Minority and Women's Businesses

Respondent and any potential subcontractors shall take affirmative steps to assure that minority and women's businesses are utilized when possible as sources of supplies, equipment, construction, and services, as detailed in the federal requirements relating to minority and women's business enterprises: Executive Order 11625 of October 13, 1971, 36 Fed. Reg. 19967, as amended by Executive Order No. 12007 of August 22, 1977, 42 Fed. Reg. 42839; Executive Order No. 12432 of July 14, 1983, 48 Fed. Reg., 32551; and Executive Order No. 12138 of May 18, 1979, 44 Fed. Reg. 29637.

12. Environmental Standards

Respondent and any potential subcontractors shall comply with environmental standards that may be prescribed pursuant to the following:

a Institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514;

b Notification of violating facilities pursuant to EO 11738;

c Protection of wetlands pursuant to EO 11990;

d Evaluation of flood hazards in floodplains in accordance with EO 11988;

e Assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.);

f Conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C.§§7401 et seq.);

g Contracts and subgrants of amounts in excess of $150,000 must contain a provision that requires the non- Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

h Protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and

i Protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).

j Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201).

k A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded

- $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

13. Historic Properties

Respondent and any potential subcontractors shall assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).

14. All Other Federal Laws

Respondent and any potential subcontractors shall comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing the Solicitation.

I have read, understand, and agree to comply with the Federal Affirmations specified above. Checking "YES" indicates acceptance, while checking "NO" denotes non-acceptance.

YES X NO _____

Authorized Signature: _____

Printed Name and Title: Jeff Dunlop Vice President

Respondent's Tax ID: 75-2593850 Telephone: 737-243-2719

If Respondent is a Corporation or other legal entity, please attach a corporate resolution or other appropriate official documentation that states that the person signing this Solicitation Response is an authorized person to sign for and legally bind the corporation or entity.

XVI. FHWA 1273 Certification

I have read, understand, and agree to comply with the FHWA 1273 presented in Attachment B. Checking "YES" indicates acceptance, while checking "NO" denotes non-acceptance.

YES X NO

Authorized Signature: _____

Printed Name and Title: Jeff Dunlop Vice President

Respondent's Tax ID: 75-2593850 Telephone: 737-243-2719

If Respondent is a Corporation or other legal entity, please attach a corporate resolution or other appropriate official documentation that states that the person signing this Solicitation Response is an authorized person to sign for and legally bind the corporation or entity.

Attachment A
IFB 2022-B05 Bid Form
Countywide Portable Toilets and Hand Washing Stations Rental Services

Respondent must provide its total bid amount by completing the mandatory bid form included as Attachment A: IFB 2022-B05 Bid Form. **Pricing should be based per the instructions.**

Note that Hays County has other locations that could need portable toilet and hand washing station services in the future and the addition of these locations would fall under this contract, as well as changes in current portable toilet and hand washing station needs. At any point if the County deems the portable toilet/hand washing station quantity and/or frequency of cleanings does not satisfy the needs of the County then we can request an increase in the frequency of cleanings and/or number of toilets and hand washing stations provided. All portable toilets and handwashing stations and cleanings per unit should be listed in below.

All pricing and fees shall include installation and removal of the unit. Equipment required, fuel, labor, tipping fees, clean-up costs and all associated costs to perform this service efficiently and effectively.

Hays County is exempt from federal excise and state sales tax; therefore, tax must not be included in this bid.

ESTIMATED QUANTITIES: No warranty is given or implied by the County as to any components listed in this Bid and are considered to be estimates for the purpose of information only. The County reserves the right to accept all or any part of the bid and to increase or decrease quantities of Bidder's bid to meet additional or reduced requirements of the County.

The undersigned authority affirms that they are duly authorized to execute this contract, that this bid has not been prepared in collusion with any other bidder, and that the contents of this bid has not been communicated to any other bidder prior to the official opening of this bid.

Company Name: United Site Services of Texas, Inc

Printed Name: Jeff Dunlop

Signature: _____

Email Address: Mark.Lemley@unitedsiteservices.com

Phone: 737-243-2719

Current County Locations & Services: Price per location, per month with a total annual cost per location.

Unit Type	Location	Number of Units	Cleanings Per Week	Price per location per Month	*Price per location per year
Standard Toilet	**5 Mile Dam** 4440 Old Stagecoach Road, San Marcos	1	2	$196.00	$2,352.00
ADA Toilet	**5 Mile Dam** 4440 Old Stagecoach Road, San Marcos	1	2	$274.00	$3,288.00
Hand Washing Station	**5 Mile Dam** 4440 Old Stagecoach Road, San Marcos	2	2	$548.00	$6,576.00
Standard Toilet	**Jacobs Well Natural Area** 1699 Mt. Sharp Road, Wimberley	2	1	$216.00	$2,592.00
ADA Toilet	**Jacobs Well Natural Area** 1699 Mt. Sharp Road, Wimberley	1	1	$152.00	$1,824.00
Hand Washing Station	**Jacobs Well Natural Area** 1699 Mt. Sharp Road, Wimberley	2	1	$304.00	$3,648.00
ADA Toilet	**Gay Ruby Dahlstrom Nature Preserve** 5131 FM 967, Buda	1	1	$152.00	$1,824.00
Hand Washing Station	**Gay Ruby Dahlstrom Nature Preserve** 5131 FM 967, Buda	1	1	$152.00	$1,824.00
Total Monthly & Yearly Cost*				$1,994.00	$23,928.00

***yearly cost should equal the monthly cost multiplied by 12**

Additional toilets, hand washing stations, cleanings, etc., priced per unit for as needed basis, as well as for any future needs of the County:

Item	Unit Price per Day	Unit Price per Week	Unit Price per Month
Standard Toilet: one week or less, without service	$7.00	$35.00	$140.00
Standard Toilet: with once-a-week service	$7.00	$35.00	$140.00
Standard Toilet: with twice-a-week service	$14.00	$70.00	$280.00
Standard Toilet: emergency servicing required after hours and weekends	$270.00		
ADA Toilet: one week or less, without service	$9.00	$63.00	$252.00
ADA Toilet: with once-a-week service	$9.00	$63.00	$252.00
ADA Toilet: with twice-a-week service	$18.00	$126.00	$504.00
ADA Toilet: emergency servicing required after hours and weekends	$270.00		
Hand Washing Station	$9.00	$63.00	$252.00

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY
CERTIFICATION OF FILING

Certificate Number:
2021-832707

Date Filed:
12/14/2021

Date Acknowledged:

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.
United Site Services of Texas, Inc.
Buda, TX United States

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.
Hays County

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.
IFB 2022-B05
Portable Toilets and Hand Washing Stations Rental Services

4 Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
		Controlling	Intermediary
United Site Services, Inc	Westborough, MA United States	X	

5 Check only if there is NO Interested Party. ☐

6 UNSWORN DECLARATION

My name is Jeff Dunlop, and my date of birth is 7/26/79.

My address is 118 Flanders Road, Suite 1000 (street), Westborough (city), MA (state), 01581 (zip code), USA (country).

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Worcester County, State of Massachusetts, on the 15th day of December (month), 20 21 (year).

Signature of authorized agent of contracting business entity
(Declarant)

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY
CERTIFICATION OF FILING

Certificate Number:
2021-832707

Date Filed:
12/14/2021

Date Acknowledged:
01/12/2022

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.
United Site Services of Texas, Inc.
Buda, TX United States

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.
Hays County

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.
IFB 2022-B05
Portable Toilets and Hand Washing Stations Rental Services

4 Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
		Controlling	Intermediary
United Site Services, Inc	Westborough, MA United States	X	

5 Check only if there is NO Interested Party. ☐

6 UNSWORN DECLARATION

My name is _____, and my date of birth is _____.

My address is _____, _____, _____, _____, _____.
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in _____ County, State of _____, on the _____ day of _____, 20_____.
(month) (year)

_____
Signature of authorized agent of contracting business entity
(Declarant)

United Site Services of Texas, Inc

168 Park 35 CV N

Buda, TX 78610

Solicitation No. IFB 2022-B05
Countywide Portable Toilets and Hand Washing Stations Rental Services

Exceptions

Techs do not have brooms and pans for sweeping debris on their vehicles.

OMNIBUS CERTIFICATE
OF
OFFICER
OF
UNITED SITE SERVICES, INC.
AND
THE OTHER COMPANIES SET FORTH ON SCHEDULE I HERETO

The undersigned, Mary Ann Sigler, Vice President and Treasurer of each Company listed on Schedule I hereto (each, a "Company"), do hereby certify that each person listed below has been duly elected and qualified as an officer of each Company, having the title set forth opposite such person's name:

Name	Title
Scott Jamroz	Chief Financial Officer
Jeffrey Dunlop	Vice President & Assistant Secretary

IN WITNESS WHEREOF, the undersigned has executed this Certificate on the 27th day of June, 2019.

Mary Ann Sigler
Vice President and Treasurer

v2015.10

SCHEDULE I

"A" COMPANY, INC.
Accurate Waste Removal Services, Inc.
Accurate Waste Systems, Inc.
Applied Waste Water Pumping LLC
Central Jersey Septic, LLC
DON'S JOHNS INC.
HBSS Real Estate, LLC
Johnny on the Spot, LLC
Liquid Waste Holdings Corp.
Northeast Sanitation, Inc.
Readilite & Barricade, Inc.
Rinehart's Sanitation Services, LLC
Russell Reid Waste Hauling and Disposal Service Co., Inc.
S & S Portable Services, Inc.
United Site National Services Company
United Site Services Northeast, Inc.
United Site Services of Arizona, Inc.
United Site Services of California, Inc.
United Site Services of Colorado, Inc.
United Site Services of Florida, LLC
United Site Services of Georgia, LLC
United Site Services of Louisiana, Inc.
United Site Services of Maryland, Inc.
United Site Services of Mississippi, LLC
United Site Services of Nevada, Inc.
United Site Services of Texas, Inc.
United Site Services, Inc.
USS Ultimate Holdings, Inc.

IFB 2022-B05

Countywide Portable Toilets and Hand Washing Station Rental Services

Bid Tabulation

Firm Name	Monthly Amount	Rank
Texas Disposal Systems, Inc.	$ 2,060.00	2
United Site Services of Texas, Inc.	$ 1,994.00	1

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Discussion and possible action to authorize the County Judge to execute a Health Care Services Agreement between Hays County and Ascension Seton dba Ascension Seton Hays regarding participation in the drug discount program known as the 340B Program.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
ACTION-MISCELLANEOUS	January 18, 2022	N/A

LINE ITEM NUMBER

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR REVIEW:** N/A

REQUESTED BY	SPONSOR	CO-SPONSOR
T. CRUMLEY	BECERRA	N/A

SUMMARY

The 340B Program was so named as it was established under Section 340B of the Public Health Services Act. Participation in this program allows hospitals caring for the indigent, uninsured and underinsured population to purchase drugs from manufacturers at a discounted price.

Attachment: Health Care Services Agreement

HEALTH CARE SERVICES AGREEMENT

BETWEEN

Hays County, Texas

AND

Ascension Seton d/b/a Ascension Seton Hays

THIS HEALTH CARE SERVICES AGREEMENT ("Agreement") is made January 18, 2022 ("Effective Date") by and between **Hays County, Texas** ("County"), and **Ascension Seton d/b/a Ascension Seton Hays**, located at 6001 Kyle Pkwy, Kyle, TX 78640 ("Hospital").

RECITALS:

WHEREAS, Hospital is a nonprofit hospital that plays a vital role in the health care safety net by supporting programs that benefit the indigent, uninsured, and underinsured population in the State of Texas;

WHEREAS, Hospital desires to participate in the drug discount program established under Section 340B of the Public Health Services Act (the "340B Program");

WHEREAS, in order to participate in the 340B Program, Hospital must contract with a unit of state or local government pursuant to which Hospital commits to provide healthcare services to low-income individuals who are neither entitled to benefits under Medicare (Title XVIII of the Social Security Act (SSA) nor eligible for assistance under Medicaid (Title XIX of the SSA);

WHEREAS, Hospital desires to make such a formal commitment to County; and

WHEREAS, County agrees to accept such commitment on behalf of the citizens of County;

NOW, THEREFORE, in consideration of the mutual agreements and covenants contained herein and for other good a valuable consideration, the receipt and sufficiency of which hereby are acknowledged, it is mutually agreed and covenanted, under seal, by and between the parties to this Agreement, as follows:

1. **Commitment of Hospital to Provide Care to the Indigent, Uninsured, and Underinsured.**

During the term of this Agreement, Hospital agrees to continue its historic commitment to the provision of healthcare to indigent, uninsured and underinsured residents of County, including low-income residents who do not qualify for Medicaid or Medicare. In any event, Hospital will assure that all patients will receive necessary care, as required by law, regardless of ability to pay.

2. Acceptance and Acknowledgements of County.

a. County accepts the commitment of Hospital set forth above; and
b. County shall provide to Hospital the name, title, email address, and phone number of a government official who can confirm the status of this Agreement.

3. Representations of Hospital.

Hospital represents that as of the Effective Date:

a. Hospital is a corporation duly organized and validly existing in good standing under the laws of the State of Texas with the corporate power and authority to enter into and perform its obligations under this Agreement; and
b. Hospital is a tax-exempt corporation of under Section 501(c)(3) of the Internal Revenue Code of the United States, as amended and under applicable laws of State of Texas.

4. Term and Termination.

The term of this Agreement shall commence on the date first above written and shall continue until terminated by either party upon not less than sixty (60) days' prior written notice to the other party.

5. Notice.

All notices required or permitted to be given under this Agreement shall be deemed given when delivered by hand or sent by registered or certified mail, return receipt requested, addressed as follows:

Sent to: Hays County Judge
Attention: 111 E. San Antonio St., Suite 300
San Marcos, Texas 78666

With copy to: Office of General Counsel
Hays County
111 E. San Antonio St.,Suite 202
San Marcos, Texas 78666

Sent to**:** Ascension Seton
Attention: 340B Director
1345 Philomena St.
Suite 402
Austin, Texas 78723

With copy to: Ascension Seton
Attention: General Counsel
1345 Philomena St.
Suite 402
Austin, Texas 78723

6. Governing Law.

This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, excepting any conflict of law provisions which would serve to defeat application of Texas substantive law.

IN WITNESS WHEREOF, Hospital and County have executed this Agreement as of the day and year first written above by their duly authorized representatives.

HOSPITAL

_____
Name:
Title:

COUNTY

_____
Name: Ruben Becerra
Title: Hays County Judge

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Discussion and possible action to authorize the County Judge to execute a Service Order Agreement with Grande Communications Networks, LLC related to data, phone and security services at the new facility located at 120 Stagecoach Trail in San Marcos.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
ACTION-MISCELLANEOUS	January 18, 2022	$1,965 monthly

LINE ITEM NUMBER

001-655-00.5489
001-680-00.5489

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR REVIEW:** N/A

REQUESTED BY	SPONSOR	CO-SPONSOR
Jeff McGill	SHELL	N/A

SUMMARY

The attached contract will provide fiber at the 120 Stagecoach building and includes all the required services; Internet, SD-WAN, and advanced security service. The fiber circuit provides Data/Phone/Security services and a direct integration to the county network and meets the security requirements needed for Elections and IT operations. Fiber and Data costs will be allocated based on number of lines per department once the building is operational.

Attachment: Grande Communications Service Order

Service Order

This Service Order (this "Service Order") is entered into as of the date of last signature below (the "Effective Date"), by and between GRANDE COMMUNICATIONS NETWORKS, LLC, a Delaware limited liability company ("Provider"), and the customer specified below ("Customer"). This Service Order is made pursuant to and will be governed by that certain Master Services Agreement for Enterprise Services (the "MSA") executed separately between Provider and Customer. All capitalized terms used but not defined in this Service Order shall have the meanings given to them in the MSA.

CUSTOMER	DBA	CONTACT NAME	CONTACT INFO
HAYS COUNTY COMPUTER SERVICE			Office: Mobile: Email:
BILLING ADDRESS		**ALTERNATIVE CONTACT**	**BUSINESS PHONE NUMBER**
120 Stagecoach Trail, San Marcos, TX, 78666, USA			
TAX ID	**ACCOUNT NUMBER**	**REFERENCE NUMBER**	**ACCOUNT SALES REP**
	0 -	OP254528	Chris Cox - 2618

INITIAL SERVICE TERM	SEGMENT
36 months	Enterprise

Provider shall provide to Customer the services set forth below (each, a "Service"), at the location(s) set forth below (each, a "Service Site"), in exchange for the one-time, non-recurring installation charge ("NRC"), and the monthly recurring service charges ("MRC") set forth below:

PRODUCT LINE ITEM	Z-LOC ADDRESS (PRIMARY)	Z-LOC DEMARC	A-LOC ADDRESS	A-LOC DEMARC	UNITS	MRC / UNIT	TOTAL MRC	NRC / UNIT	TOTAL NRC
Advanced Cloud Security 1 Gb	120 Stagecoach Trail, San Marcos, TX, 78666, USA	Cust Prem			1	$830.00	$830.00	$0.00	$0.00
DIA 1 Gb	120 Stagecoach Trail, San Marcos, TX, 78666, USA	Cust Prem			1	$1,135.00	$1,135.00	$0.00	$0.00
IP Addresses /29 (8 count / DIA)	120 Stagecoach Trail, San Marcos, TX, 78666, USA	Cust Prem			1	$0.00	$0.00	$0.00	$0.00
NOTE: If the Demarcation Point listed above for a Service Site is the MPOE, then Customer is responsible for providing any necessary demarc extension / additional inside wiring to reach the Customer's premises/suite.						**TOTALS**	**$1,965.00**		**$0.00**

Note: The charges listed above do not include applicable taxes, fees and surcharges.

NOTES

Important Notice Regarding E911 Service. The telephone Services provided hereunder are provided by Provider's Internet Protocol voice network (aka "VoIP"). Federal Communications Commission rules require that providers of VoIP phone services remind customers of these important E911 facts: (i) Provider needs a correct service site address in order to deliver accurate location information to E911; (ii) If you move your VoIP phone equipment to a different physical address, you must call Provider immediately to update the location information, otherwise E911 will not have your correct location information on file; (iii) VoIP services operate using the standard electrical power provided to the service site, so unless you have arranged for a back-up power supply, the Services will be unavailable during a power outage; (iv) You may not be able to make E911 calls if there is a power outage, network outage or other technical problems, or if your phone service is terminated or suspended. **By signing below Customer indicates that Customer has read and understands this notice regarding E911 service.**

The submission of this Service Order to Customer by Provider does not constitute an offer. Instead, this Service Order will become effective only when both parties have signed it. The date this Service Order is signed by the last party to sign it (as indicated by the date associated with that party's signature) will be deemed the Effective Date of this Service Order.

Authorized Customer Signature	Authorized Provider Signature
Printed Name	Printed Name
Title	Title
Date Signed	Date Signed

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court
Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Discussion and possible action to adopt a Resolution authorizing the execution of an Advance Funding Agreement (AFA) with Texas Department of Transportation for a Transportation Alternative Set-Aside (TASA) project.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
ACTION-MISCELLANEOUS	January 18, 2022	

LINE ITEM NUMBER

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR REVIEW:** N/A

REQUESTED BY	SPONSOR	CO-SPONSOR
T. CRUMLEY/BORCHERDING	SHELL	N/A

SUMMARY

On June 1, 2021 the Hays County Commissioners court approved the submission of a detailed grant application to the TxDOT TA program for the Hays County FM 2325 Sidewalk project. The project includes construction of a 6-ft ADA compliant sidewalk along the west side of Carney Lane from Danforth Junior High then widening to an 8-ft ADA compliant sidewalk along the south side of FM 2325 to Green Acres, crossing to the north side at the signal, and terminating approximately 325' east of Green Acres. The sidewalk termini connect to an existing sidewalk for access to the HEB Grocery store. A total of 0.84 mile of a safe and accessible path.

On October 28, 2021, via Minute Order 116126, the Texas Transportation Commissioner authorized the Hays County FM 2325 Sidewalk project receive Transportation Alternative Set-Aside (TASA) funds for project construction and Texas Department of Transportation (TxDOT or State) oversight. To execute an Advance Funding Agreement a resolution must first pass by majority vote of all members of the Hays County Commissioners Court.

Attached: Resolution

RESOLUTION

STATE OF TEXAS §
COUNTY OF HAYS §

A Resolution of the Commissioners Court of Hays County, Texas authorizing the execution of an Advance Funding Agreement (AFA) with the Texas Department of Transportation for a Transportation Alternative Set-Aside (TASA) Project.

WHEREAS, on October 28, 2021, via Minute Order 116126, the Texas Transportation Commissioner authorized the FM 2325 Sidewalk project (the "Project") to receive Transportation Alternative Set-Aside (TASA) funds for project construction and Texas Department of Transportation (TxDOT or State) oversight; and

WHEREAS, the TASA funds require a local match, Hays County commits to provide the match. The local match is comprised of cash, plus in-kind contributions, if any; and

WHEREAS, Hays County is responsible for all non-reimbursable costs and 100% of overruns, if any; and

WHEREAS, the Hays County Commissioners Court desires to reaffirm its support of the Project and approve and authorize the execution of an Advance Funding Agreement (AFA) with TxDOT for the Project.

NOW, THEREFORE, BE IT RESOLVED BY THE HAYS COUNTY COMMISSIONERS COURT THAT the Hays County Judge is authorized to enter into an AFA with TxDOT for this Project.

DULY PASSED by majority vote of all members of the Hays County Commissioners Court on the 18th day of January, 2022.

_____

Ruben Becerra
Hays County Judge

ATTEST:

_____

Elaine Cardenas, MBA, PhD
Hays County Clerk

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Discussion and possible action to create an RFQ to bring broadband to rural parts of Hays County using American Rescue Plan Act, State, and/or Build Back Better Funds.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
ACTION-MISCELLANEOUS	January 18, 2022	

LINE ITEM NUMBER

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR REVIEW:** N/A

REQUESTED BY	SPONSOR	CO-SPONSOR
	BECERRA	N/A

SUMMARY

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Discussion and possible action to authorize the Texas Water Trade (TWT) to complete and submit an application to the Texas Water Development Board (TWDB) on behalf of Hays County for use of the Clean Water State Revolving Fund for financing of up to $25,000,000 for water quality protection lands and amend the Professional Services Agreement between Hays County and TWT to extend the project completion date to December 31, 2022.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
ACTION-MISCELLANEOUS	January 18, 2022	

LINE ITEM NUMBER

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR REVIEW:** N/A

REQUESTED BY	SPONSOR	CO-SPONSOR
	SHELL	N/A

SUMMARY

Texas Water Trade, on behalf of Hays County, prepared and submitted a Project Information Form (PIF) to the Texas Water Development Board (TWDB) to secure low interest financing for the Hays County Water Quality Protection Land Acquisition Program in the amount of $30 Million. Hays County's project has recently been selected and Hays County has now been invited to submit an application for use of the Clean Water State Revolving Fund (CWSRF). This fund can be utilized for the financing of projects, included in POSAC recommendations that qualify as water quality protection lands, in lieu of the traditional issuance of bonds. Any potential use of the CWSF would be included in the total $75M previously approved by Hays County voters. The County has currently issued $50M of the $75M leaving a maximum of $25M that could be funded by the CWSRF.

Hays County is not obligated to use the CWSRF if this action is approved. Hays County can decide at any time to stop the CWSRF process and utilize traditional bond financing for qualified projects

A PSA previously approved by the Court is included in back-up. The project completion date is proposed to be amended to Dec. 31, 2022.

FIRST AMENDMENT TO THE
PROFESSIONAL SERVICES AGREEMENT BETWEEN
HAYS COUNTY AND TEXAS WATER TRADE

This 1ST Amendment to the Professional Services Agreement ("Amendment") is made this __ day of January, 2022, by and between Hays County, a political subdivision of the State of Texas (hereinafter referred to as "County"), and Texas Water Trade (hereinafter referred to as "Contractor") to the agreement executed on or about May 12, 2020. The above-cited parties are collectively referred to as "the parties to this Agreement" or "the parties."

4. DURATION

The parties agree that the Work shall be completed by December 31, ~~2020~~2022. (hereinafter the "Completion Date"). In the event that Contractor is unable to complete the Work by the Completion Date, Contractor shall request an extension of the Completion Date in writing no later than fifteen (15) business days prior to the Completion Date. The County may grant extensions of the Completion Date for all reasonable extension requests and shall do so in writing.

EXCEPT FOR THE ABOVE MODIFICATION, ALL OTHER TERMS AND CONDITIONS OF THE AGREEMENT SHALL REMAIN UNCHANGED, UNLESS PROPERLY MODIFIED BY SUBSEQUENT AMENDMENT UNDER THE TERMS OF THE AGREEMENT.

This 1st Amendment to the Professional Services Agreement hereby executed this ___ day of January, 2022, as is evidenced by the authorized signatures of the Parties, below.

CONTRACTOR

_____

TEXAS WATER TRADE

COUNTY

_____

HAYS COUNTY, TEXAS
RUBEN BECERRA
HAYS COUNTY JUDGE

ATTEST:_____
ELAINE H. CARDENAS, MBA, PhD
HAYS COUNTY CLERK

PROFESSIONAL SERVICES AGREEMENT
HAYS COUNTY, TEXAS

HAYS COUNTY, a political subdivision of the State of Texas (hereinafter the "County") with administrative offices at 111 E. San Antonio, Suite 300, San Marcos, Texas 78666, and **Texas Water Trade (**hereinafter "Contractor"), whose primary place of business is located at 611 S. Congress Avenue, Suite 125 Austin, Texas 78704, hereby enter into this Professional Services Agreement (hereinafter "Agreement") effective the 12th day of May, 2020 (hereinafter "Effective Date"). The County and Contractor (collectively "the parties to this Agreement" or "the parties") agree as follows:

1. OVERVIEW
Contractor shall assist the County in its financial application with the Texas Water Development Board as it relates to the Clean Water State Revolving Fund, the scope of which is described in Exhibit "A", which is attached hereto and incorporated herein for all purposes.

2. SERVICES
Contractor agrees to perform services for the County in accordance with the County's instructions and, in particular, the instructions of Tammy Crumley, Director of Countywide Operations (or her designee) and/or legal counsel for the Hays County Commissioners Court; and in conformance with the descriptions, definitions, terms, and conditions of this Agreement. The Scope of Services shall be limited to those services and terms attached hereto as Exhibit "A", and any subsections of Exhibit "A", if as and when they are attached hereto and signed by the parties (collectively "the Work"). If the parties to this Agreement amend the Work required under this Agreement (by adding or removing specific services and/or terms enumerated in Exhibits "A" and/or "C"), the Compensation cited in Section 5 of this Agreement may also be amended to conform with the change in Scope of Services, as agreed by the parties.

3. ADDITIONAL TERMS
Additional Terms and Obligations of the parties to this Agreement, if any, are stated in Exhibit "C", attached hereto.

4. DURATION
The parties agree that the Work shall be completed by__December 31, 2020. (hereinafter the "Completion Date"). In the event that Contractor is unable to complete the Work by the Completion Date, Contractor shall request an extension of the Completion Date in writing no later than fifteen (15) business days prior to the Completion Date. The County may grant extensions of the Completion Date for all reasonable extension requests and shall do so in writing.

5. COMPENSATION
Contractor will be compensated for the Work on an installments basis, which is attached hereto as Exhibit "B." The County shall pay Contractor a total fee not to exceed _thirty-eight thousand_____ dollars ($_38,000.00_____ USD) for the Work under this Agreement.

6. PAYMENT
Contractor shall invoice the County for the Work performed under this Agreement on a monthly basis, beginning at the end of the first full month following the Effective Date. The County agrees to promptly pay all invoices in accordance with Texas Government Code Chapter 2251 and by sending payment to Contractor's address stated in Section 8, below.

7. NOTICE OF COMPLETION
Upon completion of the Work, Contractor shall send a Notice of Completion to the County in writing, and the County shall have the option to inspect the Work (or the product thereof) before it is considered complete under this Agreement. If the County is satisfied that the Work under this Agreement is complete, the County shall send Contractor an Acceptance of Completion in writing. If, after inspection, the County does not agree that the Work is complete or believes that the Work is of deficient quality, the County shall send Contractor a Deficiency Letter, stating the specific aspects of the Work that are incomplete and/or deficient. If, after ten (10) business days from the County's receipt of Contractor's Notice of Completion, the County does not send Contractor either an Acceptance of Completion or a Deficiency Letter, the Work under this Agreement shall be considered complete.

8. NOTICE (GENERAL)
All notices issued by Contractor under or regarding this Agreement shall be provided in writing to the County at: Hays County, Attn: County Judge, 111 E. San Antonio, Suite 300 San Marcos, Texas 78666; <tammy.crumley@co.hays.tx.us>.

All notices issued by the County under or regarding this Agreement shall be provided in writing to Contractor at its primary place of business.

Notices from one party to another under this Section may be made by U.S. Mail, parcel post, Facsimile, or Electronic Mail, sent to the designated contact at any of the designated addresses cited above.

9. INSURANCE
Contractor agrees that, during the performance of all terms and conditions of this Agreement, from the Effective Date until the County's acceptance of Contractor's Notice of Completion or until this Agreement is otherwise considered completed as a matter of law, Contractor shall maintain Commercial General Liability insurance that meets or exceeds the industry standard for professional services providers in Contractor's field of employment and for the type of services that are being performed by Contractor under this Agreement.

10. MUTUAL INDEMNITY
Contractor agrees, to the fullest extent permitted by law, to indemnify and hold harmless the County, its officers, directors and employees against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, to the extent caused by Contractor's negligent performance of the Work under this Agreement and that of its subcontractors or anyone for whom the Consultant is responsible or legally liable.

The County agrees, to the fullest extent permitted by law, to indemnify and hold harmless Contractor, its officers, directors, employees and subcontractors against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, to the extent caused by the County's negligent acts in connection with this Agreement.

Neither the County nor Contractor shall be obligated to indemnify the other party in any manner whatsoever for the other party's negligence.

11. COMPLIANCE WITH LAWS
Each party agrees to comply with all laws, regulations, rules, and ordinances applicable to this Agreement and/or applicable to the parties performing the terms and conditions of this Agreement.

12. SURVIVAL
Notwithstanding any termination of this Agreement, the following Sections, and the terms and conditions contained therein, shall remain in effect: 3, 5, 8, 10, 12, 14, 15, 16, 17, 18, 20, 21 and 22.

13. FORCE MAJEURE
Either of the parties to this Agreement shall be excused from any delays and/or failures in the performance of the terms and conditions of this agreement, to the extent that such delays and/or failures result from causes beyond the delaying/failing party's reasonable control, including but not limited to Acts of God, Forces of Nature, Civil Riot or Unrest, and Governmental Action that was unforeseeable by all parties at the time of the execution of this Agreement. Any delaying/failing party shall, with all reasonable diligence, attempt to remedy the cause of delay and/or failure and shall recommence all remaining duties under this Agreement within a reasonable time of such remedy.

14. SEVERABILITY
If any Section or provision of this Agreement is held to be invalid or void, the other Sections and provisions of this Agreement shall remain in full force and effect to the greatest extent as is possible, and all remaining Sections or provisions of this Agreement shall be construed so that they are as consistent with the parties' intents as possible.

15. MULTIPLE COUNTERPARTS
This Agreement may be executed in several counterparts, all of which taken together shall constitute one single Agreement between the parties.

16. SECTION HEADINGS, EXHIBITS
The Section and Subsection headings of this Agreement, as well as Section 1, Entitled "Overview," shall not enter in the interpretation of the terms and conditions contained herein, as those portions of the Agreement are included merely for organization and ease of review. The Exhibit(s) that may be referred to herein and may be attached hereto, are incorporated herein to the same extent as if fully set forth herein.

17. WAIVER BY PARTY
Unless otherwise provided in writing by the waiving party, a waiver by either of the parties to this Agreement of any covenant, term, condition, agreement, right, or duty that arises under this Agreement shall be considered a one-time waiver and shall not be construed to be a waiver of any succeeding breach thereof or any other covenant, term, condition, agreement, right, or duty that arises under this Agreement.

18. GOVERNING LAW AND VENUE
THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS. Any lawsuit, claim, or action, whether in law or in equity, arising from this Agreement will be brought in Hays County, Texas.

19. ASSIGNMENT
Neither party to this Agreement may assign it duties, interests, rights, benefits and/or obligations under this Agreement, in whole or in part, without the other party's prior written consent thereto.

20. BINDING EFFECT
Subject to any provisions hereof restricting assignment, this Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors, permitted assigns, heirs, executors, and/or administrators.

21. ENTIRE AGREEMENT; AMENDMENT
This Agreement (including any and all Exhibits attached hereto) constitutes the entire agreement between the parties hereto with respect to the subject matter hereof. Any amendments to this Agreement must be made in writing and signed by the parties to this Agreement prior to the performance of any terms or conditions contained in said amendments.

22. WORK PRODUCT
Any and all product, whether in the form of calculations, letters, findings, opinions, or the like, shall be the property of Hays County during and after performance of the Work. Contractor shall have a right to retain a copy of all Work product for record-keeping purposes.

23. TERMINATION BY COUNTY
This Agreement may be terminated by Hays County, for any reason whatsoever, by providing thirty (30) days written notice to Contractor. Any approved services provided under this Agreement up to the date of termination may be invoiced by Contractor after the termination date, and payment of said invoice shall not be unreasonably withheld by the County.

Signatures by the parties to this Professional Services Agreement follow on the next page.

IN WITNESS WHEREOF, the undersigned have duly executed and delivered this Professional Services Agreement, and hereby declare that THEY HAVE READ AND DO UNDERSTAND AND AGREE TO EACH AND EVERY TERM, CONDITION, AND COVENANT CONTAINED IN THIS AGREEMENT AND IN ANY DOCUMENT INCORPORATED BY REFERENCE.

Hays County, Texas

By: Ruben Becerra
Hays County Judge

By: Sharlene Leurig
Chief Executive Officer

ATTEST:
Dr. Elaine Cardenas, MBA, PhD
Hays County Clerk

EXHIBIT A-1

Scope of Work

On March 3, 2020, Texas Water Trade, on behalf of Hays County, prepared and submitted a Project Information Form (PIF) to the Texas Water Development Board (TWDB) to secure low interest financing and potentially Green Subsidy Principal Forgiveness for the Hays County Water Quality Protection Land Acquisition Program in the amount of $30 Million. It is expected that in the April-May 2020 time frame, TWDB will invite Hays County to submit a full application, likely with 45 calendar days, to complete the application process. Texas Water Trade offers this proposal to prepare and submit the full application, as well as to manage the application process to the point of financial closing and fund disbursement to Hays County. The following outlines the anticipated scope of work Texas Water Trade will perform to assist Hays County with the Clean Water State Revolving Fund application submission:

1. Upon receipt of a Letter of Invitation from the Texas Water Development Board, evaluate the stipulations in said letter and establish a schedule for completion of the full application.
2. Establish an internal meeting with staff and elected officials from Hays County, as well as their Bond Counsel and Financial Advisor, to review application requirements and establish delivery deadlines on specific aspects of the application.
3. Establish a weekly conference call with key members of the application team to mark progress and answer questions.
4. Brief the Hays County Parks and Opens Space Advisory Committee on development of the SRF application on an as-needed basis.
5. Attend Pre-Application Meeting with TWDB staff.
6. Enter materials into the Application via the TWDB online portal.
7. Produce a review draft and circulate to key team members.
8. Accept comments from key team members, and revise draft to final.
9. Submit final application document to TWDB via online portal. Circulate final document to key team members.
10. Field and respond to questions from TWDB staff and provide supplementary information.
11. Support the County through financial closing.

EXHIBIT B

Fee Schedule

Texas Water Trade will complete the above deliverables for a flat fee of $38,000. The fee will be payable in three installments.

1. 25% upon execution of this proposal and Notice to Proceed from Hays County.
2. 50% upon completion and submittal of the Application to Texas Water Development Board.
3. 25% upon closing.

-- EXHIBIT "C" --

Additional Terms to the Services provided by Contractor, if any, are as follows:

A. N/A

B._____

C._____

D._____

E._____

F._____

G._____

H._____

I._____

J._____

K._____

L._____

Illustrative Lending Rate Memorandum | January 7, 2022

The Texas Water Development Board's Illustrative Lending Rates (ILR), shown as of the above date, assume level debt service, and are subject to change and availability of funds. Actual rates will vary depending on length, time of closing and structure. For Clean Water State Revolving Funds (CWSRF) and Drinking Water State Revolving Funds (DWSRF), actual rates will also depend upon the entity's corresponding rating. These rates are listed for comparative and marketing purposes only. Rates for the prior 2021 State Water Implementation Fund for Texas (SWIFT) funding cycle, though no longer available for new financial assistance, can be found here for informational purposes.

For assistance, please look up contact information for your Regional Team.

State Revolving Funds for Projects in the SFY 2022 Intended Use Plan

Clean Water State Revolving Fund - 20 Year Term

Equivalency CWSRF Estimated Rates

Rating	Market[1]	TWDB[2, 3]
AAA	1.93%	1.16%
AA	2.04%	1.22%
A	2.14%	1.28%
BAA	2.41%	1.45%

Non-Equivalency CWSRF Estimated Rates

Rating	Market[1]	TWDB[2, 3]
AAA	1.93%	1.25%
AA	2.04%	1.33%
A	2.14%	1.39%
BAA	2.41%	1.57%

Clean Water State Revolving Fund - 30 Year Term

Equivalency CWSRF Estimated Rates

Rating	Market[1]	TWDB[2, 3]
AAA	2.84%	1.70%
AA	2.96%	1.78%
A	3.02%	1.81%
BAA	3.22%	1.93%

Non-Equivalency CWSRF Estimated Rates

Rating	Market[1]	TWDB[2, 3]
AAA	2.84%	1.85%
AA	2.96%	1.92%
A	3.02%	1.96%
BAA	3.22%	2.09%

Drinking Water State Revolving Fund - 20 Year Term

Equivalency DWSRF Estimated Rates

Rating	Market[1]	TWDB[2, 3]
AAA	1.93%	1.25%
AA	2.04%	1.33%
A	2.14%	1.39%
BAA	2.41%	1.57%

Non-Equivalency DWSRF Estimated Rates

Rating	Market[1]	TWDB[2, 3]
AAA	1.93%	1.35%
AA	2.04%	1.43%
A	2.14%	1.50%
BAA	2.41%	1.69%

Drinking Water State Revolving Fund - 30 Year Term

Equivalency DWSRF Estimated Rates

Rating	Market[1]	TWDB[2, 3]
AAA	2.84%	1.85%
AA	2.96%	1.92%
A	3.02%	1.96%
BAA	3.22%	2.09%

Non-Equivalency DWSRF Estimated Rates

Rating	Market[1]	TWDB[2, 3]
AAA	2.84%	1.99%
AA	2.96%	2.07%
A	3.02%	2.11%
BAA	3.22%	2.25%

Table Legend

1. Market rates applicable to the State Revolving Funds utilize the 13th and 20th year MMD rates, converted to yield to maturity, for the corresponding rating to approximate 20 and 30-year terms, respectively.
2. TWDB rates utilize the 13th and 20th year MMD rates for the applicable credit rating, converted to yield to maturity, and reduced by a percentage subsidy as shown below, to approximate 20 and 30-year terms, respectively.

   #### Interest Rate Subsidies – All Ratings

Rating	Equivalency	Non-Equivalency
CWSRF	40%	35%
DWSRF	35%	30%

3. Origination fee (not applicable to principal forgiveness) is 1.75% for CWSRF or 2.00% for DWSRF.

For more information on CWSRF or DWSRF programs, click links below:

- https://www.twdb.texas.gov/financial/programs/CWSRF/
- https://www.twdb.texas.gov/financial/programs/DWSRF/

General Obligation Programs – Estimated Rates

Type of Funds	Terms	Market[1]	TWDB[2]	Difference
Development Fund (Tax Exempt)	20	2.54%	2.07%	0.47%
Development Fund (Tax Exempt)	30	3.17%	2.50%	0.67%
Development Fund (Taxable)	20	3.55%	2.47%	1.08%
Agricultural Loans (Taxable)	7	2.65%	0.43%	2.22%
Rural Water Assistance Fund (Taxable)	40	N/A	3.12%	N/A

Table Legend

1. Market GO rates are calculated from sample level debt service schedules using the BAA-rated MMD tax-exempt and taxable scales, as appropriate. Market data is not available for 40-year terms.
2. TWDB GO rates are calculated from sample level debt service schedules using TWDB-adopted rate scales; however, the TWDB GO rate for Rural Water Assistance Fund (Taxable) is based on Development Fund (Taxable) rate.

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Executive Session pursuant to Sections 551.071 and 551.072 of the Texas Government Code: consultation with counsel and deliberation regarding the purchase, exchange, lease and/or value of Right of Way located at or near Darden Hill Road in Pct. 4. Possible discussion and/or action may follow in open court.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
EXECUTIVE SESSION	January 18, 2022	

LINE ITEM NUMBER

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR REVIEW:** N/A

REQUESTED BY	SPONSOR	CO-SPONSOR
	SMITH	N/A

SUMMARY

Summary to be provided in Executive Session.

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Executive Session pursuant to Sections 551.071 and 551.072 of the Texas Government Code: consultation with counsel and deliberation regarding the purchase, exchange, lease and/or value of real property associated with the POSAC-recommended 2020 Parks and Open Space Bond Projects. Possible discussion and/or action may follow in open court.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
EXECUTIVE SESSION	January 18, 2022	

LINE ITEM NUMBER

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR REVIEW:** N/A

REQUESTED BY	SPONSOR	CO-SPONSOR
	BECERRA	N/A

SUMMARY

Summary to be provided in Executive Session.

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Executive Session pursuant to Sections 551.071 and 551.087 of the Texas Government Code: consultation with counsel and deliberation regarding economic development negotiations associated with Project Deep Golden and Project Shamrock. Possible discussion and/or action may follow in open Court.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
EXECUTIVE SESSION	January 18, 2022	

LINE ITEM NUMBER

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR REVIEW:** N/A

REQUESTED BY	SPONSOR	CO-SPONSOR
M. Kennedy	JONES	N/A

SUMMARY

Summary to be provided in Executive Session.

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Executive Session pursuant to Sections 551.071 and 551.072 of the Texas Government Code: consultation with counsel and deliberation regarding the purchase, exchange, lease and/or value of real property owned by Hays County located along Veterans Drive, Kyle in Pct. 2 & 3. Possible discussion and/or action may follow in open court.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
EXECUTIVE SESSION	January 18, 2022	

LINE ITEM NUMBER

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR REVIEW:** N/A

REQUESTED BY	SPONSOR	CO-SPONSOR
	JONES	SHELL

SUMMARY

Summary to be provided in Executive Session.

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Executive Session pursuant to Sections 551.071 and 551.074 of the Texas Government Code: consultation with counsel and the Auditor's Office regarding the Emergency Rental Assistance Program and the employment and individual duties of all positions created in relation to the Program. Possible discussion and/or action may follow in open court.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
EXECUTIVE SESSION	January 18, 2022	TBD

LINE ITEM NUMBER

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR REVIEW:** N/A

REQUESTED BY	SPONSOR	CO-SPONSOR
	INGALSBE	N/A

SUMMARY

Information to be provided in Executive Session.

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Executive Session pursuant to Sections 551.071 and 551.074 of the Texas Government Code deliberation regarding employment and duties of all positions within the Hays County Transportation Department. Possible discussion and/or action may follow in open court.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
EXECUTIVE SESSION	January 18, 2022	N/A

LINE ITEM NUMBER

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR REVIEW:** N/A

REQUESTED BY	SPONSOR	CO-SPONSOR
Jerry H. Borcherding/Aaron Jones	SHELL	N/A

SUMMARY

Summary to be provided in Executive Session

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Executive Session pursuant to Sections 551.071 and 551.072 of the Texas Government Code: consultation with counsel and deliberation regarding the purchase, exchange, lease and/or value of real property owned by Hays County located along 712 S. Stagecoach Trail, San Marcos in Pct. 3. Possible discussion and/or action may follow in open court.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
EXECUTIVE SESSION	January 18, 2022	

LINE ITEM NUMBER

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR REVIEW:** N/A

REQUESTED BY	SPONSOR	CO-SPONSOR
	SHELL	N/A

SUMMARY

Summary to be provided in Executive Session.

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Executive Session pursuant to Sections 551.071 and 551.072 of the Texas Government Code: consultation with counsel and deliberation to consider a resolution determining the necessity and authorizing the use of the County's power of eminent domain to acquire approximately 0.0646 acres in fee simple from property located along CR266 (Centerpoint to Rattler), owned by Mary Ann Natal, and which is required for improving County Road 266 as part of the Hays County Road Bond Program, and take other appropriate action (Parcel 13). Possible discussion and/or action may follow in open court.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
EXECUTIVE SESSION	January 18, 2022	

LINE ITEM NUMBER

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR REVIEW:** N/A

REQUESTED BY	SPONSOR	CO-SPONSOR
	INGALSBE	N/A

SUMMARY

Additional information will be provided in Executive Session.