

*Fort Bend County, Texas
Invitation for Bid*



*Purchase and Delivery of Mobile Medical Oxygen Generating System
BID 22-079*

SUBMIT BIDS TO:

Fort Bend County
Purchasing Department
301 Jackson, Suite 201
Richmond, TX 77469

Note: All correspondence must include the term "Purchasing Department" in address to assist in proper delivery.

SUBMIT NO LATER THAN:

Tuesday, July 5, 2022
2:00 PM (Central)

LABEL ENVELOPE:

BID 22-079
MOBILE MEDICAL OXYGEN GS

ALL BIDS MUST BE RECEIVED IN AND TIME/DATE STAMPED BY THE PURCHASING OFFICE OF FORT BEND COUNTY BEFORE THE SPECIFIED TIME/DATE STATED ABOVE.

BIDS RECEIVED AS REQUIRED WILL THEN BE OPENED AND READ ALOUDE.

BIDS RECEIVED AFTER THE SPECIFIED TIME, WILL BE RETURNED UNOPENED.

Results will not be given by phone.
Results will be provided to bidder in writing after the Commissioners Court awards.

Requests for information must be in writing and directed to:
Cheryl Krejci, CPPB
Assistant Purchasing Agent
cheryl.krejci@fortbendcountytexas.gov

Vendor Responsibilities:

- Download and complete any addendums. (Addendums will be posted on the Fort Bend County website no Later than 48 hours prior to bid opening)
- Submit response in accordance with requirements stated on the cover of this document.
- DO NOT submit responses via email or fax.



COUNTY PURCHASING AGENT

Fort Bend County, Texas

Vendor Information

Jaime Kovar
Purchasing Agent

Office (281-341-8640)

Legal Company Name <small>(top line of W9)</small>				
Business Name <small>(if different from legal name)</small>				
Federal ID # or S.S. #		DUNS #		
Type of Business	<input type="checkbox"/> Corporation/LLC <input type="checkbox"/> Partnership <input type="checkbox"/> Sole Proprietor/Individual <input type="checkbox"/> Tax Exempt Organization	Age in Business?		
Publicly Traded Business	<input type="checkbox"/> No <input type="checkbox"/> Yes Ticker Symbol _____			
Remittance Address				
City/State/Zip				
Physical Address				
City/State/Zip				
Phone/Fax Number	Phone: _____ Fax: _____			
Contact Person				
E-mail				
Check all that apply to the company listed above and provide certification number.	DBE-Disadvantaged Business Enterprise <input type="checkbox"/>	Certification # _____ Certification # _____ Certification # _____ Certification # _____	<u>Cert Date</u>	<u>Exp Date</u>
	SBE-Small Business Enterprise <input type="checkbox"/>		_____	_____
	HUB-Texas Historically Underutilized Business <input type="checkbox"/>		_____	_____
	WBE-Women's Business Enterprise <input type="checkbox"/>		_____	_____
			_____	_____
Company's gross annual receipts	<\$500,000 _____	\$500,000-\$4,999,999 _____		
	\$5,000,000-\$16,999,999 _____	\$17,000,000-\$22,399,999 _____		
	>\$22,400,000 _____			
NAICs codes (Please enter all that apply)				
Signature of Authorized Representative				
Printed Name				
Title				
Date				

THIS FORM MUST BE SUBMITTED WITH THE SOLICITATION RESPONSE

1.0 GENERAL REQUIREMENTS:

- 1.1 Read this entire document carefully. Follow all instructions. You are responsible for fulfilling all requirements and specifications. Be sure you understand them.
- 1.2 General Requirements apply to all advertised bids; however, these may be superseded, whole or in part, by the scope, special requirements, specifications, special specifications or other data contained herein.
- 1.3 Governing Law: Bidder is advised that these requirements shall be fully governed by the laws of the State of Texas and that Fort Bend County may request and rely on advice, decisions and opinions of the Attorney General of Texas and the County Attorney concerning any portion of these requirements.
- 1.4 Bid Document Completion: Fill out, initial each page, sign, and return ONE (1) complete bid document to the Fort Bend County Purchasing Department. An authorized representative of the bidder must sign the Contract Sheet. Do not complete the date at the top of the contract sheet. Do not double-side the bid response. The bid document must be in a sealed envelope marked with the appropriate solicitation number and title. The contract will be binding only when signed by the County Judge, Fort Bend County, and a purchase order authorizing the item(s) desired has been issued. The use of correction fluid is not acceptable and may result in the disqualification of bid. If an error is made, the bidder must draw a line through error and initial each change. All response, typed or written, information must be clear and legible.

If a pricing form in Excel is included and posted on the County website amongst this bid document, the Vendor must download, complete and save the Excel file of the pricing form on a CD or flash drive. The Excel file on the CD or flash drive must be downloadable by the Purchasing Department in order to copy and paste the vendor's pricing to the County's tabulation. The CD or flash drive must be included in the same sealed envelope with the respondent's completed bid document along with a printed copy of the pricing form.
- 1.5 Bid Returns: Bidders must return completed bid documents to the Fort Bend County Purchasing Department at 301 Jackson, Suite 201, Richmond, Texas no later than 2:00 PM on the date specified, unless stated otherwise on page one. Late bids will not be accepted. Bids must be submitted in a sealed envelope, addressed as follows: Fort Bend County Purchasing Department, 301 Jackson, Richmond, Texas 77469.
- 1.6 Governing Document: In the event of any conflict between the terms and provisions of these requirements and the specifications, the specifications shall govern. In the event of any conflict of interpretation of any part of this overall document, Fort Bend County's interpretation shall govern.

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- 1.7 Addenda: No interpretation of the meaning of the drawings, specifications or other bid documents will be made to any bidder orally. All requests for such interpretations must be made in writing addressed to Cheryl Krejci, Assistant Purchasing Agent, 301, Jackson, Suite 201, Richmond, Texas, 77469, E-mail: Cheryl.Krejci@fortbendcountytexas.gov. Any and all interpretations and any supplemental instructions will be in the form of written addenda to the contract documents which will be posted on Fort Bend County's website. Addenda will **ONLY** be issued by the Fort Bend County Purchasing Agent. It is the sole responsibility of each bidder to insure receipt of any and all addenda. All addenda issued will become part of the contract documents. Bidders must sign and include it in the returned bid package. Deadline for submission of questions and/or clarification is no later than **Tuesday, June 28, 2022 at 9:00AM (CST)** Requests received after the deadline will not be responded to due to the time constraints of this bid process.
- 1.8 Hold Harmless Agreement: Contractor shall indemnify and hold Fort Bend County harmless from all claims for personal injury, death and/or property damage arising from any cause whatsoever, resulting directly or indirectly from contractor's performance. Contractor shall procure and maintain, with respect to the subject matter of this bid, appropriate insurance coverage including, as a minimum, public liability and property damage with adequate limits to cover contractor's liability as may arise directly or indirectly from work performed under terms of this bid. Certification of such coverage must be provided to the County upon request.
- 1.9 Waiver of Subrogation: Bidder and bidder's insurance carrier waive any and all rights whatsoever with regard to subrogation against Fort Bend County as an indirect party to any suit arising out of personal or property damages resulting from bidder's performance under this agreement.
- 1.10 Severability: If any section, subsection, paragraph, sentence, clause, phrase or word of these requirements or the specifications shall be held invalid, such holding shall not affect the remaining portions of these requirements and the specifications and it is hereby declared that such remaining portions would have been included in these requirements and the specifications as though the invalid portion had been omitted.
- 1.11 Bonds: If this bid requires submission of bid guarantee and performance bond, there will be a separate page explaining those requirements. Bids submitted without the required bid bond or cashier's checks are not acceptable. Bond/s or cashier's check must be complete with all required signatures.
- 1.12 Taxes: Fort Bend County is exempt from all federal excise, state and local taxes unless otherwise stated in this document. Fort Bend County claims exemption from all sales and/or use taxes under Chapter 20, Title 122a, Vernon's Texas Civil Statutes, as amended. Texas Limited Sales Tax Exemption Certificates will be

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furnished upon written request to the Fort Bend County Purchasing Department.

- 1.13 Fiscal Funding: A multi-year lease or lease/purchase arrangement (if requested by the specifications), or any contract continuing as a result of an extension option, must include fiscal funding out. If, for any reason, funds are not appropriated to continue the lease or contract, said lease or contract shall become null and void. After expiration of the lease, leased equipment shall be removed by the bidder from the using department without penalty of any kind or form to Fort Bend County. All charges and physical activity related to delivery, installation, removal and redelivery shall be the responsibility of the bidder.
- 1.14 Pricing: Prices for all goods and/or services shall be firm for the duration of this contract and shall be stated in the bid spreadsheet. Prices shall be all inclusive. No price changes, additions, or subsequent qualifications will be honored during the course of the contract. All prices must be written in ink or typewritten. Pricing on all transportation, freight, and other charges are to be prepaid by the contractor and included in the bid prices. If there are any additional charges of any kind, other than those mentioned above, specified or unspecified, bidder MUST indicate the items required and attendant costs or forfeit the right to payment for such items.
- 1.15 Silence of Specifications: The apparent silence of specifications as to any detail, or the apparent omission from it of a detailed description concerning any point, shall be regarded as meaning that only the best commercial practice is to prevail and that only material and workmanship of the finest quality are to be used. All interpretations of specifications shall be made on the basis of this statement.

The items furnished under this contract shall be new, unused of the latest product in production to commercial trade and shall be of the highest quality as to materials used and workmanship. Manufacturer furnishing these items shall be experienced in design and construction of such items and shall be an established supplier of the item bid.

- 1.16 Supplemental Materials: Bidders are responsible for including all pertinent product data in the returned bid package. Literature, brochures, data sheets, specification information, completed forms requested as part of the bid package and any other facts which may affect the evaluation and subsequent contract award should be included. Materials such as legal documents and contractual agreements, which the bidder wishes to include as a condition of the bid, must also be in the returned bid package. Failure to include all necessary and proper supplemental materials may be cause to reject the entire bid.
- 1.17 Material Safety Data Sheets: Under the "Hazardous Communication Act", commonly known as the "Texas Right to Know Act", a bidder must provide to Fort Bend County and using departments, with each delivery, material safety data sheets, which are, applicable to hazardous substances defined in the Act. Bidders

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are obligated to maintain a current, updated file in the Fort Bend County Purchasing Department. Failure of the bidder to maintain such a file will be cause to reject any bid applying thereto.

- 1.18 Name Brands: Specifications may reference name brands and model numbers. It is not the intent of Fort Bend County to restrict these bids in such cases, but to establish a desired quality level of merchandise or to meet a pre-established standard due to like existing items. Bidders may offer items of equal stature and the burden of proof of such stature rests with them. Vendors bidding “or equal” items are required to provide manufacturer’s specifications of both, the specified item and the “equal to” item, and documentation proving equality. Fort Bend County shall act as sole judge in determining equality and acceptability of products offered.
- 1.19 Color Selection: Determination of colors of materials is a right reserved by the using department unless otherwise specified in the bid. Unspecified colors shall be quoted as standard colors, not colors, which require up charges or special handling. Unspecified fabrics or vinyl should be construed as medium grade. If bidder fails to get color/material approvals prior to delivery of merchandise, the using department may refuse to accept the items and demand correct shipment without penalty, subject to other legal remedies.
- 1.20 Term Contracts: If the Contract is intended to cover a specific time period, said time will be given in the specifications under scope.
- 1.21 Recycled Materials: Fort Bend County encourages the use of products made of recycled materials and shall give preference in purchasing to products made of recycled materials if the products meet applicable specifications as to quantity and quality. Fort Bend County will be the sole judge in determining product preference application.
- 1.22 Evaluation: Evaluation shall be used as a determinant as to which bid items or services are the most efficient and/or most economical for Fort Bend County. It shall be based on all factors which have a bearing on price and performance of the items in the user environment. All bids are subject to tabulation by the Fort Bend County Purchasing Department and recommendation to Fort Bend County Commissioners Court. Compliance with all bid requirements, delivery and needs of the using department are considerations in evaluating bids. Pricing is NOT the only criteria for making a recommendation. The Fort Bend County Purchasing Department reserves the right to contact any bidder, at any time, to clarify, verify or request information with regard to any bid.
- 1.23 Inspections: Fort Bend County reserves the right to inspect any item(s) or service location for compliance with specifications and requirements and needs of the using department. If a bidder cannot furnish a sample of a bid item, where applicable, for review, or fails to satisfactorily show an ability to perform, the

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County can reject the bid as inadequate.

- 1.24 Testing: Fort Bend County reserves the right to test equipment, supplies, material and goods bid for quality, compliance with specifications and ability to meet the needs of the user. Demonstration units must be available for review. Should the goods or services fail to meet requirements and/or be unavailable for evaluation, the bid is subject to rejection.
- 1.25 Disqualification of Bidder: Upon signing this bid document, a bidder offering to sell supplies, materials, services, or equipment to Fort Bend County certifies that the bidder has not violated the antitrust laws of this state codified in section 15.01, et seq., Business & Commerce Code, or the federal antitrust laws, and has not communicated directly or indirectly the bid made to any competitor or any other person engaged in such line of business. Any or all bids may be rejected if Fort Bend County believes that collusion exists among the bidders. Bids in which the prices are obviously unbalanced may be rejected. If multiple bids are submitted by a bidder and after the bids are opened, one of the bids is withdrawn, the result will be that all of the bids submitted by that bidder will be withdrawn; however, nothing herein prohibits a vendor from submitting multiple bids for different products or services.
- 1.26 Awards: Fort Bend County reserves the right to award this Contract on the basis of lowest and best bid in accordance with the laws of the State of Texas, to waive any formality or irregularity, to make awards to more than one bidder, to reject any or all bids. In the event the lowest dollar bidder meeting specifications is not awarded a contract, the bidder may appear before the Commissioners Court and present evidence concerning its responsibility.
- 1.27 Term Contracts: If the contract is intended to cover a specific time period, said time will be given in the specifications under scope.
- 1.28 Maintenance: Maintenance required for equipment bid should be available in Fort Bend County by a manufacturer authorized maintenance facility. Costs for this service shall be shown on the bid sheet as requested or on a separate sheet, as required. If Fort Bend County opts to include maintenance, it shall be so stated in the purchase order and said cost will be included. Service will commence only upon expiration of applicable warranties and should be priced accordingly.
- 1.29 Contract Obligation: Fort Bend County Commissioners Court must award the Contract and the County Judge or other person authorized by the Fort Bend County Commissioners Court must sign the Contract before it becomes binding on Fort Bend County or the bidders. Department heads are not authorized to sign agreements for Fort Bend County. Binding agreements shall remain in effect until all products and/or services covered by this purchase have been satisfactorily delivered and accepted.
- 1.30 Title Transfer: Title and Risk of Loss of goods shall not pass to Fort Bend

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County until Fort Bend County actually receives and takes possession of the goods at the point or points of delivery. Receiving times may vary with the using department. Generally, deliveries may be made between 8:30 a.m. and 4:00 p.m., Monday through Friday. Bidders are advised to consult the using department for instructions. The place of delivery shall be shown under the "Special Requirement" section of this bid document and/or on the Purchase Order as a "Ship To:" address.

- 1.31 Purchase Order and Delivery: The successful bidder shall not deliver products or provide services without a Fort Bend County Purchase Order, signed by an authorized agent of the Fort Bend County Purchasing Department. The fastest, most reasonable delivery time shall be indicated by the bidder in the proper place on the bid sheet. Any special information concerning delivery should also be included, on a separate sheet, if necessary. All items shall be shipped F.O.B. inside delivery unless otherwise stated in the specifications. This shall be understood to include bringing merchandise to the appropriate room or place designated by the using department. Every tender or delivery of goods must fully comply with all provisions of these requirements and the specifications including time, delivery and quality. Nonconformance shall constitute a breach, which must be rectified prior to expiration of the time for performance. Failure to rectify within the performance period will be considered cause to reject future deliveries and cancellation of the contract by Fort Bend County without prejudice to other remedies provided by law. Where delivery times are critical, Fort Bend County reserves the right to award accordingly.
- 1.32 Contract Extension: Extensions may be made only by written agreement between Fort Bend County and the bidder. Any price escalations are limited to those stated by the bidder in the original bid.
- 1.33 Termination: Fort Bend County reserves the right to terminate the contract for default if Seller breaches any of the terms therein, including warranties of bidder or if the bidder becomes insolvent or commits acts of bankruptcy. Such right of termination is in addition to and not in lieu of any other remedies, which Fort Bend County may have in law or equity. Default may be construed as, but not limited to, failure to deliver the proper goods and/or services within the proper amount of time, and/or to properly perform any and all services required to Fort Bend County's satisfaction and/or to meet all other obligations and requirements. Contracts may be terminated without cause upon thirty (30) days written notice to either party unless otherwise specified.
- 1.34 Interlocal Participation: Additional governmental entities may purchase from this bid. Vendor agrees to accept purchase orders from those participating entities and to invoice each entity separately.
- 1.35 Modifications: This instrument contains the entire Contract between the parties relating to the rights herein granted and obligations herein assumed. Any oral or

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written representations or modifications concerning this instrument shall be of no force and effect excepting a subsequent written modification signed by both parties hereto.

2.0 TERMS & CONDITIONS:

- 2.1 Seller to Package Goods: Seller will package goods in accordance with good commercial practice. Each delivery container shall be clearly and permanently marked as follows (a) Seller's name and address; (b) Consignee's name, address and purchase order number and the bid number if applicable; (c) Container number and total number of containers (e.g. box 1 of 4 boxes); and (d) the number of the container bearing the packing slip. Seller shall bear cost of packaging unless otherwise provided. Goods shall be suitably packed to secure lowest transportation costs and to conform to requirements of common carriers and any applicable specifications. Fort Bend County's count or weight shall be final and conclusive on shipments not accompanied by packing list.
- 2.2 Shipment Under Reservation Prohibited: Seller is not authorized to ship goods under reservation and no tender of a bill of lading will operate as a tender of goods.
- 2.3 Title and Risk of Loss: The title and risk of loss of the goods shall not pass to the County until a County employee actually receives and takes possession of the goods at the point or points of delivery.
- 2.4 Delivery Terms: F.O.B. Destination Freight Prepaid, Inside Delivery, unless delivery terms are specified otherwise on Purchase Order.
- 2.5 No Replacement of Defective Tender: Every tender or delivery of goods must fully comply with all provisions of the Purchase Order as to time of delivery, quality and the like. If a tender is made which does not fully conform, this shall constitute a breach and Seller shall not have the right to substitute a conforming tender.
- 2.6 Place of Delivery: The place of delivery shall be that set forth in the block of the purchase order entitled "Ship To". Any change thereto shall be effective by modification as provided for in Clause number 2.20 "Modifications", hereof. The terms of this agreement are "no arrival, no sale", at the discretion of Fort Bend County.
- 2.7 Invoices and Payments:
 - 2.7.1 Seller shall submit separate invoices, in duplicate. Invoices shall indicate the purchase order number and the bid number if applicable. Invoices shall be itemized and transportation charges, if any, shall be listed separately. A copy of the bill of lading, and the freight waybill when

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applicable should be attached to the invoice.

- 2.7.2 Fort Bend County's obligation is payable only and solely from funds available for the purpose of this purchase. Lack of funds shall render the order null and void to the extent funds are not available and any delivered but unpaid goods will be returned to Seller by the county.
- 2.7.3 Do not include Federal Excise, State, or City Sales Tax. Fort Bend County is a tax-exempt governmental entity.
- 2.8 Gratuities: Fort Bend County may, by written notice to the Seller, cancel any order without liability, if it is determined by the County that gratuities, in the form of entertainment, gifts, or otherwise were offered or given by the Seller, or any agent or representative of the Seller to any officer or employee of Fort Bend County with a view toward securing an order. In the event an order is canceled by the County pursuant to this provision, the County shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by Seller in providing such gratuities.
- 2.9 Special Tools and Test Equipment: If the price stated on the face of an order includes the cost of any special tooling or special test equipment fabricated or required by Seller for the purpose of filing this order, such special tooling equipment and any process sheets related thereto shall become the property of the County and to the extent feasible shall be identified by the Seller as such.
- 2.10 Warranty/Price:
 - 2.10.1 The price to be paid by the County shall be that contained in Seller's quote or bid which Seller warrants to be no higher than Seller's current prices on orders by others for products of the kind and specification covered by an order for similar quantities under similar or like conditions and methods of purchase. In the event Seller breaches this warranty the prices of the items shall be reduced to the Seller's current prices on orders by others. Fort Bend County may cancel this contract without liability.
 - 2.10.2 The Seller warrants that no person or selling agency has been employed or retained to solicit or secure any County order based upon any agreement or understanding for commission, percentage, brokerage, or contingent fee excepting bona fide employees of bona fide established commercial or selling agencies maintained by the Seller for the purpose of securing business. A breach or violation of this warranty gives the County the right, in addition to any other right or rights, to cancel this contract without liability.
- 2.11 Warranty Product: Seller shall not limit or exclude any implied warranties and any attempt to do so shall render an order voidable at the option of the County.

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Seller warrants that the goods furnished will conform to the specifications, drawings, and description listed in the bid invitation and purchase order as applicable, and to the sample(s) furnished by Seller if any. In the event of a conflict between the specifications, drawings, and descriptions, the specifications shall govern.

- 2.12 Safety Warranty: Seller warrants that the product sold to Fort Bend County shall conform to the standards promulgated by the U.S. Department of Labor under the Occupational Safety and Health Act of 1970. In the event the product does not conform to OSHA standards, the County may return the product for correction or replacement at the Seller's expense. In the event Seller fails to make the appropriate correction within 10 days, correction made by the County will be at Seller's expense.
- 2.13 No Warranty by Fort Bend County Against Infringements: As part of a contract for sale Seller agrees to ascertain whether goods manufactured in accordance with the specifications will give rise to the rightful claim of any third person by way of infringement. Fort Bend County makes no warranty that the production of goods according to the specification will not give rise to such a claim and in no event shall Fort Bend County be liable to Seller for indemnification in the event the Seller is sued on the grounds of infringement or the like. If Seller is of the opinion that an infringement will result, he will notify Fort Bend County to this effect in writing within two days after the receiving Purchase Order. If the County does not receive notice and is subsequently held liable for the infringement, Seller will defend and save the County harmless. If Seller in good faith ascertains that production of the goods in accordance with the specifications will result in infringement, this contract shall be null and void except that the County will pay Seller the reasonable cost of his search as to infringements.
- 2.14 Right of Inspection: The County shall have the right to inspect the goods at delivery before accepting them.
- 2.15 Cancellation: Fort Bend County shall have the right to cancel for default all or any part of the undelivered portion of an order if Seller breaches any of the terms hereof including warranties of Seller, or if the Seller becomes insolvent or files for protection under the bankruptcy laws. Such rights of cancellation are in addition to and not in lieu of any other remedies, which Fort Bend County may have in law or equity.
- 2.16 Termination: The performance of work under a Purchase Order may be terminated in whole or in part by the County in accordance with this provision. Termination of work there under shall be effected by the delivery to the Seller of a "Notice of Termination" specifying the extent to which performance of work under the order is terminated and the date upon which such termination becomes effective. Such right of termination is in addition to and not in lieu of rights of Fort Bend County set forth in Clause 15 herein.

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- 2.17 Force Majeure: Force Majeure means a delay encountered by a party in the performance of its obligations under this Agreement, which is caused by an event beyond the reasonable control of that party. Without limiting the generality of the foregoing, "Force Majeure" shall include but not be restricted to the following types of events: acts of God or public enemy; acts of governmental or regulatory authorities; fires, floods, epidemics or serious accidents; unusually severe weather conditions; strikes, lockouts, or other labor disputes; and defaults by subcontractors.

In the event of a Force Majeure, the affected party shall not be deemed to have violated its obligations under this Agreement, and the time for performance of any obligations of that party shall be extended by a period of time necessary to overcome the effects of the Force Majeure, provided that the foregoing shall not prevent this Agreement from terminating in accordance with the termination provisions. If any event constituting a Force Majeure occurs, the affected party shall notify the other parties in writing, within twenty-four (24) hours, and disclose the estimated length of delay, and cause of the delay.

- 2.18 Assignment-Delegation: No right or interest in an order shall be assigned or delegation of any obligation made by Seller without the written permission of Fort Bend County. Any attempted assignment or delegation by Seller shall be wholly void and totally ineffective for all purposes unless made in conformity with this paragraph.
- 2.19 Waiver: No claim or right arising out of a breach of any contract can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waived or renunciation is supported by consideration and is in writing signed by the aggrieved party.
- 2.20 Modification: A Purchase Order can be modified or rescinded only by a writing signed by both of the parties or their duly authorized agents.
- 2.21 Parol Evidence: This writing is intended by the parties as a final expression of their agreement and is intended also as a complete and exclusive statement of the terms of this agreement. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any terms rendered under this agreement and shall not be relevant to determine the meaning of this agreement even though the accepting or acquiescing party has knowledge of the performance and opportunity for objection. Whenever a term defined by the Uniform Commercial Code is used in this agreement, the definition contained in the Code is to control.
- 2.22 Applicable Law: This agreement shall be governed by the Uniform Commercial Code. Whenever the term "Uniform Commercial Code" is used it shall be construed as meaning the Uniform Commercial Code as adopted in the State of Texas and in effective on the date of the purchase order.

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- 2.23 Advertising: Seller shall not advertise or publish, without the County's prior consent the fact that Fort Bend County has entered into any contract, except to the extent necessary to comply with proper requests for information from an authorized representative of the federal, state, or local government.
- 2.24 Right to Assurance: Whenever the County in good faith has reason to question the other party's intent to perform. The County may demand that the other party give written assurance of his intent to perform. In the event that a demand is made and no assurance is given within five (5) days, the County may treat this failure as an anticipatory repudiation of the contract.
- 2.25 Venue: Both parties agree that venue for any litigation arising from this contract shall lie in Richmond, Fort Bend County, Texas.
- 2.26 Prohibition Against Personal Interest in Contracts: No officer or employee of the County shall have a financial interest, direct or indirect, in any contract with the County, or shall be financially interested, directly or indirectly, in the sale to the County of any land, materials, supplies, or service, except on behalf of the County as an officer or employee. Any willful violation of this section shall constitute malfeasance in office, and any officer or employee guilty thereof shall be subject to disciplinary action under applicable laws, statutes and codes of the State of Texas. Any violation of this section, with the knowledge, expressed or implied of the person or corporation contracting with the County shall render the contract involved voidable by the County Commissioners Court.

3.0 SCOPE:

It is the intent of Fort Bend County to contract with one (1) vendor to provide and deliver one (1) mobile medical oxygen generating system to Fort Bend County Emergency Medical Services, 4332 Hwy 36 South, Rosenberg, TX 77471, F.O.B. inside, which meets or exceeds the specifications as stated herein. The project will be funded by American Rescue Plan Act (ARPA); therefore, vendor is responsible for complying with ARPA and any and all federal rules and regulations.

4.0 STATE LAW REQUIREMENTS FOR CONTRACTS:

The contents of this section are required by Texas Law and are included by County regardless of content.

- 4.1 Agreement to Not Boycott Israel Chapter 2271 Texas Government Code: Contractor verifies that if Contractor employs ten (10) or more full-time employees and this Agreement has a value of \$100,000 or more, Contractor does not boycott Israel and will not boycott Israel during the term of this Agreement.
- 4.2 Texas Government Code Section 2251.152 Acknowledgment: By signature on

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vendor form, Contractor represents pursuant to Section 2252.152 of the Texas Government Code, that Contractor 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.

5.0 HUMAN TRAFFICKING:

By acceptance of this contract, Contractor acknowledges that Fort Bend County is opposed to human trafficking and that no County funds will be used in support of services or activities that violate human trafficking laws.

6.0 TEXAS ETHICS COMMISSION FORM 1295:

6.1 Effective January 1, 2016 all contracts executed by Commissioners Court, regardless of the dollar amount, will require completion of Form 1295 "Certificate of Interested Parties", per the new Government Code Statute §2252.906. All vendors submitting a response to a formal Bid, RFP, SOQ or any contracts, contract amendments, renewals or change orders are required to complete the Form 1295 online through the State of Texas Ethics Commission website. Please visit: <https://www.ethics.state.tx.us/filinginfo/1295/>

6.2 On-line instructions:

6.2.1 Name of governmental entity is to read: Fort Bend County.

6.2.2 Identification number used by the governmental entity is: B22-079.

6.2.3 Description is the title of the solicitation: Mobile Medical Oxygen Generating System.

6.3 Apparent low bidder(s) will be required to provide the Form 1295 within three (3) calendar days from notification; however, if your company is publicly traded you are not required to complete this form.

7.0 FEDERAL CLAUSES:

See Exhibit A. Contractor agrees to these clauses by initialing each page of this bid document/contract, signing the Contract Sheet and acceptance of Purchase Order.

8.0 SPECIFICATIONS, REQUIREMENTS AND BID PRICING:

Vendors are to complete bid pricing below to provide one (1) Mobile MOGS-100 Medical Oxygen Generating System or equal (see Section 1.18). Bid prices are to include delivery, F.O.B. inside, warranty and training as stated herein for designated Fort Bend County employees of the Emergency Medical Services located at 4332 Hwy 36 South, Rosenberg, TX 77471 to include the below specifications.

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- 8.1 Supply oxygen direct: up to 70 psi.
- 8.2 Fill high pressure cylinders: up to 2200 psi.
- 8.3 Standard one (1) year warranty.
- 8.4 Low noise design.
- 8.5 Pressure swing adsorption (PSA) technology to separate oxygen from ambient air which contains about 78% nitrogen, 21 % oxygen, .9% argon with the balance being other gases.
- 8.6 At high pressure, a molecular sieve adsorbs or attracts nitrogen and at low pressures it desorbs or releases nitrogen.
- 8.7 Generator consists of multiple sieve beds. As pressured air is introduced into the first bed, it passes through the sieve and nitrogen is adsorbed. The remaining oxygen and trace gases are piped to a buffer or surge tank. Just before the first bed becomes completely saturated with nitrogen, feed air is redirected to the second bed which then repeats the process until the demand is met.
- 8.8 Under normal operating conditions, which includes the use of clean dry air for separation, the sieve can last indefinitely.

Provide bid pricing to provide and deliver one (1) MOGS-100 medical oxygen generating system inclusive of the below specifications. Any shipping/freight costs are to be included in the Unit Price.

Quantity	Description
1	MOGS-100 medical oxygen generating system to meet or exceed the following: <ul style="list-style-type: none"> * 93% (\pm 3%) oxygen concentration * Up to 10 H/K size (244 cu.ft.) cylinders/day maximum output * 100 SCFH oxygen maximum output * Cylinder filling capability up to 2200 psig * 230V, 50/60Hz, 1 phase, 30 amp capacity * Dimensions: 72" L x 34.5" W x 70" H * Weight: 2550 lbs.
1	10-cylinder high pressure oxygen manifolds to include: <ul style="list-style-type: none"> * ten (10) high pressure 24" stainless steel braided flex hoses to connect the manifolds to individual cylinders

Initials of Bidder: _____

- 1 10-cylinder wall mount package to include:
 - * used to secure ten storage cylinders from oxygen manifolds to individual cylinders

- 1 25' high pressure transfill hose assembly – CGA540/CGA870 to include:
 - * high pressure oxygen hose used to transfill from manifold to individual cylinders or additional secondary manifold

- 1 10-H/K size (244 cu.ft) oxygen cylinders (cascade system) to include:
 - * new high pressure oxygen cylinders with CGA 540 valves

- 1 93% oxygen cylinder labels – 2420003.004
 - * FDA approved labels recommended for all oxygen cylinders utilizing the oxygen generated from the MOGS-50 system or equal to

- 1 Custom 20' enclosed aluminum trailer including:
 - * roof mounted HVAC
 - * 12 kw Cummins diesel generator or equal
 - * 25' shoreline
 - * work bench with storage
 - * installation of all equipment above including trailer modifications

- 1 Onsite factory startup and training including:
 - * covers technician for commissioning and testing of equipment, staff training on the system's operation and maintenance

- 1 System shrink wrapping, packaging/handling

- 1 Warranty to include:
 - * Vendor warranties its products against defects in material and workmanship, under normal use and operation, to the extent set forth herein

Initials of Bidder: _____

- * Repair or replace the Products free of charge to the original user where defects in the material and/or workmanship are evident at the time of delivery. Such replacement of the Products does not include damages incurred in shipping the Products. Vendor will pay for shipping the products one way to the original user. If shipping damage is evident, the original user should contact the shipper immediately.

- * Vendor will repair or replace the Products (excluding filter elements and sieve material) free of charge to the original user where defects in material and/or workmanship become evident between the time of delivery to the original user and one (1) year from the date of delivery to the original user. Vendor will pay for shipping the Products one way to the original user. In no event shall Vendor have any responsibility or liability for the cost of labor for the removal of component parts or equipment that constitute part of the products, packaging of the component parts or equipment that constitute part of the Products or the re-installation of replacement of the component parts or equipment that constitute part of the Products.

- * The warranty to the original user covers parts and equipment specifically manufactured and/or sold by Vendor and used as components or equipment that constitute part of the Products. The warranty on parts or equipment manufactured by third parties and included as part of the Products (e.g., air dryers, air compressors, oxygen compressors, instrumentation, etc.) is limited to the respective original warranties of such third parties.

- * A Return Authorization Number must be obtained from Vendor prior to the return shipment of the Product or any component parts or equipment of the Products. The Return Authorization Number must be visibly written on the outside of the package of the returned Products, component parts or equipment as applicable or Vendor will not accept the return.

- * Warranties as set forth herein shall also become null, void and not binding on vendor if a defect or malfunction occurs in the products or any part of the products as a result of:
 - * A failure to provide the required operating conditions for the Products:

Initials of Bidder: _____

* Repair, attempted repair, adjustment or servicing of the products, or any component parts or equipment that constitutes part of the Products by anyone other than an authorized representative of Vendor. The authorized service representative must obtain prior approval from vendor's service manager before performing any warranty work.

* External causes (e.g., flood, hurricane, tornado, fire, any natural disaster, or any event deemed an act of God).

* Molecular sieve replacement

The breakdown of the molecular sieve inside the generator (dusting of the sieve) only occurs if excess water/oil are entrained in the feed air stream. Under no circumstances is the molecular sieve covered under any warranty by vendor.

Grand Total Bid Price to provide one (1) Mobile Medical Oxygen Generating System as stated herein:

\$_____.

(Vendor must provide manufacturer name and number bidding. Must be new, current production.)

9.0 DELIVERY:

Delivery must be completed 24 weeks from release of Purchase Order by the Fort Bend County Purchasing Agent, 4332 Hwy 36 South, Rosenberg, TX 77469, F.O.B. inside.

10.0 AWARD:

This contract will be awarded to the lowest and best bidder meeting specifications.

11.0 REQUIRED FORMS:

All bidders are required to complete the attached and return with their submission:

11.1 Vendor Form

11.2 W9 Form

11.3 Tax Form/Debt/Residence Certification

Initials of Bidder: _____

11.4 Suspension/Debarment Certification (Exhibit B)

11.5 Anti-Lobbying Certificate (Exhibit C)

Initials of Bidder: _____

**Contract Sheet
Bid 22-079**

**THE STATE OF TEXAS
COUNTY OF FORT BEND**

This memorandum of agreement made and entered into on the _____ day of _____, 20____, by and between Fort Bend County in the State of Texas (hereinafter designated County), acting herein by County Judge KP George, by virtue of an order of Fort Bend County Commissioners Court, and _____ (hereinafter designated Contractor).

(company name)

WITNESSETH:

The Contractor and the County agree that the bid and specifications for the **Mobile Medical Oxygen Generating System** which are hereto attached and made a part hereof, together with this instrument and the bond (when required) shall constitute the full agreement and contract between parties and for furnishing the items set out and described; the County agrees to pay the prices stipulated in the accepted bid.

It is further agreed that this contract shall not become binding or effective until signed by the parties hereto and a purchase order authorizing the items desired has been issued.

Executed at Richmond, Texas this _____ day of _____, 20_____.

Fort Bend County, Texas

By: _____
County Judge, KP George

By: _____
Signature of Contractor

By: _____
Printed Name and Title

Request for Taxpayer Identification Number and Certification

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

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

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note. If the account is in more than one name, see the instructions for line 1 and the chart on page 4 for guidelines on whose number to enter.

Social security number									
				-			-		
or									
Employer identification number									
				-					

Part II Certification

Under penalties of perjury, I certify that:

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

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 3.

Sign Here	Signature of U.S. person ▶	Date ▶
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General Instructions

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

Future developments. Information about developments affecting Form W-9 (such as legislation enacted after we release it) is at www.irs.gov/fw9.

Purpose of Form

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

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)

- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

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

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding? on page 2.

By signing the filled-out form, you:

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

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

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

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

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

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

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

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

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

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

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

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

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

Backup Withholding

What is backup withholding? Persons making certain payments to you must under certain conditions withhold and pay to the IRS 28% of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, payments made in settlement of payment card and third party network transactions, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

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

Payments you receive will be subject to backup withholding if:

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the Part II instructions on page 3 for details),

3. The IRS tells the requester that you furnished an incorrect TIN,

4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or

5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See *Exempt payee code* on page 3 and the separate Instructions for the Requester of Form W-9 for more information.

Also see *Special rules for partnerships* above.

What is FATCA reporting?

The Foreign Account Tax Compliance Act (FATCA) requires a participating foreign financial institution to report all United States account holders that are specified United States persons. Certain payees are exempt from FATCA reporting. See *Exemption from FATCA reporting code* on page 3 and the Instructions for the Requester of Form W-9 for more information.

Updating Your Information

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

Penalties

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

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

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

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

Specific Instructions

Line 1

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

If this Form W-9 is for a joint account, list first, and then circle, the name of the person or entity whose number you entered in Part I of Form W-9.

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

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

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

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

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

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

Line 2

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

Line 3

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

Limited Liability Company (LLC). If the name on line 1 is an LLC treated as a partnership for U.S. federal tax purposes, check the "Limited Liability Company" box and enter "P" in the space provided. If the LLC has filed Form 8832 or 2553 to be taxed as a corporation, check the "Limited Liability Company" box and in the space provided enter "C" for C corporation or "S" for S corporation. If it is a single-member LLC that is a disregarded entity, do not check the "Limited Liability Company" box; instead check the first box in line 3 "Individual/sole proprietor or single-member LLC."

Line 4, Exemptions

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

Exempt payee code.

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

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

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

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

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

¹ See Form 1099-MISC, Miscellaneous Income, and its instructions.

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

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

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

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

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

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

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

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

G—A real estate investment trust

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

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

J—A bank as defined in section 581

K—A broker

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

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

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

Line 5

Enter your address (number, street, and apartment or suite number). This is where the requester of this Form W-9 will mail your information returns.

Line 6

Enter your city, state, and ZIP code.

Part I. Taxpayer Identification Number (TIN)

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

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN. However, the IRS prefers that you use your SSN.

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

Note. See the chart on page 4 for further clarification of name and TIN combinations.

How to get a TIN. If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local SSA office or get this form online at www.ssa.gov. You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at www.irs.gov/businesses and clicking on Employer Identification Number (EIN) under Starting a Business. You can get Forms W-7 and SS-4 from the IRS by visiting IRS.gov or by calling 1-800-TAX-FORM (1-800-829-3676).

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

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

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

Part II. Certification

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

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

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

- 1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983.** You must give your correct TIN, but you do not have to sign the certification.
- 2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983.** You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.
- 3. Real estate transactions.** You must sign the certification. You may cross out item 2 of the certification.
- 4. Other payments.** You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments made in settlement of payment card and third party network transactions, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).
- 5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions.** You must give your correct TIN, but you do not have to sign the certification.

What Name and Number To Give the Requester

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account)	The actual owner of the account or, if combined funds, the first individual on the account ¹
3. Custodian account of a minor (Uniform Gift to Minors Act)	The minor ²
4. a. The usual revocable savings trust (grantor is also trustee) b. So-called trust account that is not a legal or valid trust under state law	The grantor-trustee ¹ The actual owner ¹
5. Sole proprietorship or disregarded entity owned by an individual	The owner ³
6. Grantor trust filing under Optional Form 1099 Filing Method 1 (see Regulations section 1.671-4(b)(2)(i)(A))	The grantor*
For this type of account:	Give name and EIN of:
7. Disregarded entity not owned by an individual	The owner
8. A valid trust, estate, or pension trust	Legal entity ⁴
9. Corporation or LLC electing corporate status on Form 8832 or Form 2553	The corporation
10. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
11. Partnership or multi-member LLC	The partnership
12. A broker or registered nominee	The broker or nominee
13. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity
14. Grantor trust filing under the Form 1041 Filing Method or the Optional Form 1099 Filing Method 2 (see Regulations section 1.671-4(b)(2)(i)(B))	The trust

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

² Circle the minor's name and furnish the minor's SSN.

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

⁴ List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships* on page 2.

*Note. Grantor also must provide a Form W-9 to trustee of trust.

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

Secure Your Tax Records from Identity Theft

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

To reduce your risk:

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

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

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

For more information, see Publication 4535, Identity Theft Prevention and Victim Assistance.

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

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

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

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

Visit IRS.gov to learn more about identity theft and how to reduce your risk.

Privacy Act Notice

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

EXHIBIT A
FEDERALLY-REQUIRED PROVISIONS

1. Respondent acknowledges that Federal financial assistance will be used to fund all or a portion of this Contract.
2. Respondent shall comply with all applicable federal law, regulations, executive orders, policies, procedures, and directives.
3. Respondent acknowledges that the Federal Government is not a party to this Contract and is not subject to any obligations or liabilities to the County, Respondent, or any other party pertaining to any matter resulting from this Contract.
4. Respondent acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to Respondent's actions pertaining to this Contract.
5. Respondent shall not use the Department of Homeland Security (DHS) seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.
6. Access to Records. The following access to records requirements apply to this Contract:
 - A. Respondent agrees to provide the County, the U.S. Treasury, the Texas Department of Emergency Management, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of Respondent which are directly pertinent to this Contract for the purposes of making audits, examinations, excerpts, and transcriptions. Respondent shall keep its books, documents, papers, and records available for this purpose for at least five years after this Addendum terminates or expires. This provision does not limit the applicable statute of limitations.
 - B. Respondent agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
 - C. Respondent agrees to provide the U.S. Treasury or his authorized representatives access to construction or other work sites pertaining to the work being completed under this Contract, if applicable.
 - D. In compliance with the Disaster Recovery Act of 2018, the County and Respondent acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the U.S. Treasury or the Comptroller General of the United States.
7. Environmental Compliance.
 - A. Respondent shall comply with all applicable standards, ordered, or regulations issued pursuant to the Clean Air Act (42 U.S.C. § 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. § 1251 et seq.).
 - B. Respondent shall report all violations to the County, and understands and agrees that the County will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

- C. Respondent shall include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance.
8. Contract Work Hours and Safety Standards Act. All contracts entered into related to this Contract shall contain the following language:
- A. 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.
 - B. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (A) 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 (A) of this section, in the sum of \$27 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 (A) of this section.
 - C. Withholding for unpaid wages and liquidated damages. The County 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 (B) of this section.
 - D. Subcontracts. The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (A) through (D) 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 (A) through (D) of this section.
9. Equal Employment Opportunity. During the performance of this contract, Respondent agrees as follows:
- A. Respondent will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender

identity, or national origin. Respondent will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

- B. 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. Respondent agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- C. Respondent will, in all solicitations or advertisements for employees placed by or on behalf of Respondent, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- D. Respondent will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Contractor's legal duty to furnish information.
- E. Respondent will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- F. Respondent will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- G. Respondent will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- H. In the event of Respondent's noncompliance with the nondiscrimination clauses of this Contract or with any of the said rules, regulations, or orders, this Contract may be canceled, terminated, or suspended in whole or in part and Respondent may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive

Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

- I. Respondent will include the portion of the sentence immediately preceding paragraph (A) and the provisions of paragraphs (A) through (H) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or Respondent. Respondent will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event Respondent becomes involved in, or is threatened with, litigation with a subcontractor or Respondent as a result of such direction by the administering agency, the Respondent may request the United States to enter into such litigation to protect the interests of the United States.

The County further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, that if the COUNTY so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The County agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of Contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The County further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a Contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon Contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the County agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the County under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from

such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

10. Procurement of Recovered Materials.

- A. In the performance of this Contract, Respondent shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired:
- Competitively within a timeframe providing for compliance with the Contract performance schedule;
 - Meeting Contract performance requirements; or
 - At a reasonable price.
- B. Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.
- C. The Respondent also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

11. Remedies. If any work performed and/or goods delivered by Respondent fails to meet the requirements of the Contract, any other applicable standards, codes or laws, or otherwise breaches the terms of the Contract, the County may in its sole discretion:

- A. Reject the faulty goods and require rectification of the issue before the expiration of the time for performance;
- B. Reject future deliveries; and
- C. Cancel the Contract

This Section shall in no way be interpreted to limit the County's right to pursue and obtain any and all other available legal or equitable remedies against Respondent.

12. Termination for Cause.

- A. County may terminate the whole or any part of this Agreement for cause in the following circumstances:
- If Contractor fails to perform services within the time specified in the Scope of Services or any extension thereof granted by the County in writing;
 - If Contractor materially breaches any of the covenants or terms and conditions set forth in the Underlying Agreement or fails to perform any of the other provisions of the Underlying Agreement or so fails to make progress as to endanger performance of the Underlying Agreement in accordance with its terms, and in any of these circumstances does not cure such breach or failure to County's reasonable satisfaction within a period of ten (10) calendar days after receipt of notice from County specifying such breach or failure.
- B. If, after termination, it is determined for any reason whatsoever that Contractor was

not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the County as if the contract had been terminated for convenience.

- C. Upon termination of the Underlying Agreement, County shall compensate Contractor in accordance with the terms for payment set out in the agreement, above, for those services which were provided under the Underlying Agreement prior to its termination, and which have not been previously invoiced to County. Contractor's final invoice for said services will be presented to and paid by County in the same manner set forth in the Underlying Agreement.

13. Termination for Convenience.

- A. The County may terminate the Underlying Agreement, in whole or in part, at any time by written notice to the Contractor. If the Contractor has any property in its possession belonging to County, the Contractor will account for the same, and dispose of it in the manner County directs.

14. Suspension and Debarment. Federal regulations restrict the County from contracting with parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs and activities, where the contract is funded in whole or in part with federal funds. Accordingly, a contract or subcontract must not be made with any parties listed on the SAM Exclusions list. SAM Exclusions is the list maintained by the General Services Administration that contains the name of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under certain statutory or regulatory authority. Respondent can verify its status and the status of its principals, affiliates, and subcontractors at www.SAM.gov.

- A. This Contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, Respondent is required to verify that it, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are not excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- B. Respondent must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- C. This certification is a material representation of fact relied upon by the County. If it is later determined that Respondent did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the State of Texas and the County, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- D. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

15. Byrd Anti-Lobbying Amendment.

- A. Contractors who apply or bid for an award of \$100,000 or more shall file the required certification upon Contract execution. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the federal awarding agency.
16. Contracting with Small and Minority Businesses, Women’s Business Enterprises, and Labor Surplus Area Firms. If Respondent intends to subcontract any portion of the work covered by this Contract, Respondent must take all necessary affirmative steps to assure that small and minority businesses, women’s business enterprises and labor surplus area firms are solicited and used when possible. Affirmative steps must include:
- A. Placing qualified small and minority businesses and women’s business enterprises on solicitation lists;
 - B. Assuring that small and minority businesses, and women’s business enterprises are solicited whenever they are potential sources;
 - C. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women’s business enterprises;
 - D. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women’s business enterprises; and
 - E. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.
17. Domestic Preference Requirements.
- A. As appropriate and to the extent consistent with law, Respondent should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this paragraph must be included in all subcontracts and purchase orders for work or products under this Addendum. For purposes of this paragraph:
 - (1) “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
 - (2) “Manufactured products” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum;

plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

18. Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment.

A. As used in this paragraph, the terms backhaul; covered foreign country; covered telecommunications equipment or services; interconnection arrangements; roaming; substantial or essential component; and telecommunications equipment or services have the meaning as defined in FEMA Policy, #405-143-1 Prohibitions on Expending FEMA Award Funds for Covered Telecommunications Equipment or Services as used in this paragraph—

B. Prohibitions

(1) Section 889(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, and 2 C.F.R. § 200.216 prohibit the head of an executive agency on or after Aug. 13, 2020, from obligating or expending grant, cooperative agreement, loan, or loan guarantee funds on certain telecommunications products or from certain entities for national security reasons.

(2) Unless an exception in this paragraph applies, Respondent and its Subcontractors may not use grant, cooperative agreement, loan, or loan guarantee funds from FEMA to:

- i. Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
- ii. Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
- iii. Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system; or
- iv. Provide, as part of its performance of this Purchase Order or Addendum, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

C. Exceptions

(1) This paragraph does not prohibit Respondent from providing—

- i. A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

- ii. Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.
- (2) By necessary implication and regulation, the prohibitions also do not apply to:
- i. Covered telecommunications equipment or services that:
 - Are not used as a substantial or essential component of any system; and
 - Are not used as critical technology of any system.
 - Other telecommunications equipment or services that are not considered covered telecommunications equipment or services.

D. Reporting requirement

- (1) In the event Respondent identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during performance of the Services set forth in this Addendum, or Respondent is notified of such by a Subcontractor at any tier or by any other source, Respondent shall report the information in the manner stated below to the recipient or subrecipient, unless elsewhere in this Addendum are established procedures for reporting the information.
- (2) Respondent shall report the following information pursuant to this paragraph:
 - i. Within one business day from the date of such identification or notification: The Contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.
 - ii. Within 10 business days of submitting the information above: Any further available information about mitigation actions undertaken or recommended. In addition, Respondent shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

E. Subcontracts

- (1) Respondent shall insert the substance of this clause, including this paragraph (E), in all subcontracts and other contractual instruments.

EXHIBIT B
**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND
VOLUNTARY EXCLUSION—LOWER-TIER COVERED TRANSACTIONS**

“Non-federal entities and contractors are subject to the non-procurement debarment and suspension regulations implementing Executive Orders 12549 and 12689, 2 CFR 180. These regulations restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs or activities.” (2 CFR 200.212)

This certification is required by regulations implementing Executive Order 12549, Debarment and Suspension, for all lower-tier transactions meeting the threshold and tier requirements. (2 CFR 180.300)

Terms Defined

- *Nonprocurement Transaction*: A transaction under federal non-procurement programs, which can be either a primary covered transaction or a lower-tier covered transaction. (2 CFR 180.970)
- *Lower-Tier Covered Transaction*: (1) Any transaction between a participant and a person other than a procurement contract for goods or services, regardless of type, under a primary covered transaction; (2) any procurement contract for goods or services between a participant and a person, regardless of type, expected to equal or exceed \$25,000; (3) any procurement contract for goods or services between a participant and a person under a covered transaction, regardless of amount
- *Participant*: Any person who submits a proposal for or who enters into a covered transaction, including an agent or representative of a participant. (2 CFR 180.980)
- *Principal*: An officer, director, owner, partner, principal investigator, or other person within a participant with management or supervisory responsibilities related to a covered transaction; or a consultant or other person, whether or not employed by the participant or paid with federal funds, who (1) is in a position to handle federal funds; (2) is in a position to influence or control the use of those funds; or (3) occupies a technical or professional position capable of substantially influencing the development or outcome of an activity required to perform the covered transaction. (2 CFR 180.995)
- *System for Award Management (SAM) Exclusions*: The list maintained and disseminated by the General Services Administration (GSA) containing names and other information about persons who are ineligible. (2 CFR 180.945).
- *Debarment*: Action taken by a debarring official to exclude a person from participating in covered transactions and transactions covered under the Federal Acquisition Regulation (48 CFR chapter 1). A person so excluded is debarred. (2 CFR 180.925)
- *Suspension*: Action taken by a suspending official that immediately prohibits a person from participating in covered transactions and transactions covered under the Federal Acquisition

Regulation (48 CFR chapter 1) for a temporary period, pending completion of an agency investigation and any judicial or administrative proceedings that may ensue. A person so excluded is suspended. (2 CFR 180.1015)

- *Ineligible or Ineligibility:* A person or commodity is prohibited from covered transactions because of an exclusion or disqualification. (2 CFR 180.960)
- *Person:* Any individual, corporation, partnership, association, unit of government, or legal entity, however organized. (2 CFR 180.985)
- *Proposal:* A solicited or unsolicited bid, application, request, invitation to consider, or similar communication by or on behalf of a person seeking to participate or to receive a benefit, directly or indirectly, in or under a covered transaction.
- *Voluntary Exclusion:* A person's agreement to be excluded under the terms of a settlement between the person and one or more agencies. Voluntary exclusion must have governmentwide effect. (2 CFR 180.1020)
- *Voluntarily Excluded:* The status of a person who has agreed to a voluntary exclusion. (2 CFR 180.1020)

Instructions for Certification

1. By signing or certifying and submitting this application, the prospective lower-tier participant is providing the certification set out below.
2. 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.
3. The prospective lower-tier participant shall provide immediate written notice to the person to whom this proposal is submitted if at any time the prospective lower-tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms covered transaction, debarred, suspended, ineligible, lower-tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower-tier participant agrees by signing or certifying and submitting this application 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.

6. The prospective lower-tier participant further agrees by signing or certifying and submitting this application that it will include the clause titled Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower-Tier Covered Transactions, without modification, in all lower-tier covered transactions and in all solicitations for lower-tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower-tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the non-procurement list.
8. 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 a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 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 Covered Transactions**

1. The prospective lower-tier participant certifies, by signing or certifying and submitting this application, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction 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.

Contractor Name

Contract Number

Name

Title

Signature

Date

EXHIBIT C
CERTIFICATION FOR CONTRACTS, GRANTS, LOANS, AND COOPERATIVE AGREEMENTS

The undersigned certifies, to the best of his or her knowledge and belief, that:

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

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

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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

The Respondent, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, Respondent understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

Name of Respondent:

RFP or ITB No.:

Signature:

Printed Name:

Title:

Date: