Brazos River Authority

## Request for Bids

October 14, 2020 RFB No. 21-10-1184

Dear Prospective Respondent:

Sealed Bids will be received by the Purchasing Manager or other designee of the Brazos River Authority no later than **3:00 PM, October 28, 2020** for **Landscape and Mowing Services** for Williamson County facilities. All qualified firms including Small, Minority, Women Owned Businesses and Historically Underutilized Businesses are encouraged to submit bids in response to this request.

Bids must be submitted and received no later than the opening date and time specified. Any Bid received later than the specified time, shall not be considered. The BRA is ***NOT*** responsible for ensuring the delivery of Bids.

**Refer to Section 14. Delivery of Bid Submittals for instructions on submitting a response to this solicitation.**

**Bid must be clearly identified as follows on the outside of the sealed submission:**

**BID: Landscape and Mowing Services**

**RFB NO: 21-10-1184**

**RFB DUE DATE: 3:00 PM, October 28, 2020**

The BRA shall have the right to accept or reject any or all Bids, or any part thereof, and to waive any technicalities in the interest of the BRA.

**BRA will evaluate all relevant COVID-19, health, safety and business factors on all solicitations to determine when to initiate a notice to proceed on all projects, delivery of goods and/or services or procurement of construction related services to best attempt to balance BRA needs and to protect the health and safety of BRA employees, the employees of respondents and the public at large.**

Sincerely,

Clarissa Cabrera, CTPM, CTCM

Clarissa Cabrera, CTPM, CTCM
Purchasing Manager

4600 Cobbs Drive • Waco, Texas 76710
254 761 3123

# SUPPLIER DIVERSITY PURCHASING POLICY

The Brazos River Authority (BRA) will ensure that purchases of equipment, materials, supplies, and/or services conform with Texas Procurement law as applicable to the BRA, are cost effective, and contribute to the competitiveness of the BRA and its customers.

Procurement activities will be conducted in an open and fair manner with equal opportunity provided to all qualified parties. The BRA will provide equal contracting opportunities as provided by all applicable State and Federal laws to small business enterprises, Historically Underutilized Businesses and Disadvantaged Business enterprises.

# GENERAL INSTRUCTIONS TO RESPONDENTS

The Work consists of the furnishing of all labor, materials, services, equipment, and appliances required for the delivery and the supplying of products and/or services as described herein and in the contract documents.

**1. BID SUBMISSION:** Bids must be received no later than the Bid opening date and time specified above. All Bids received after closing time will not be considered.

**A.** To be considered as eligible, a Respondent shall have complied with all legal requirements to permit him to operate in the State of Texas.

**B.** Bids must be mailed or hand delivered to be considered.

**2. WITHDRAWAL OF BIDS:** No Bid may be withdrawn for a period of ninety (90) days after Bid opening, except by 1) either mutual consent of the BRA and Respondent; or 2) previously submitted Bids may be withdrawn upon written request received from Respondent prior to time established for receipt of Bids.

**3. SIGNATURE ON BIDS**: To be valid, Bids must be signed by an authorized person. By such signature, Respondent agrees to strictly abide by the terms, conditions, and Scope of work embodied in this Request for Bids.

**4. EXAMINATION OF BID DOCUMENTS:** Before submitting a Bid, all Respondents shall examine the complete Request for Bids, including Bid Notice, Instruction to Respondent, and Scope of Services, all of which are part of the Bid Documents.

**5. ADDENDA:** ***Unless otherwise stated in the Bid***, answers to all questions, inquiries, and request for additional information will be issued in the form of Addenda. During the Bid period, prospective Respondent may be advised by Addenda of additions, deletions from, or changes in the requirements of the Bid Documents. The BRA will not be responsible for the authenticity or correctness of oral interpretations of the Bid documents or for information obtained in any other manner than through the media of Addenda. Receipt of each Addendum shall be acknowledged by Respondent.

Any questions concerning this Bid should be emailed to **Clarissa Cabrera,** Purchasing Manager no later than five (5) days prior to the opening of the Bid. Mrs. Cabrera's email address is clarissa.cabrera@brazos.org. This is to allow the BRA sufficient time to respond to inquiries and provide information to all interested Respondents by Addendum. ***Unless otherwise stated in the Bid,*** Addenda will be posted on the BRA web site at www.brazos.org, Doing Business, Purchasing and Professional Services, Request for Bids.

Respondent is responsible for checking the BRA web site (www.brazos.org) for updates and Addenda until the time at which the submission is due. Failure to respond to all requirements, including those Addenda, shall be grounds for rejection of your Bid.

**6. TAXATION:** The BRA is exempt under the Texas Sales Tax and Use Tax Laws, and the Respondent shall not include such taxes in the Bid.

**7. QUALIFICATION OF RESPONDENTS:** The BRA reserves the right to reject any Bid if the evidence submitted by, or investigation of, such Respondent fails to satisfy the BRA that such Respondent is properly qualified to carry out the obligations of the contract and to complete the Work contemplated herein. Conditional Bids will not be accepted.

**8. CONSIDERATION OF BIDS:** Unless stated otherwise in the Advertisement or Request for Bids, the properly identified Bids received on time will be opened publicly and read aloud. Respondents are invited to be present.

**9. COMPLIANCE WITH SCOPE OF SERVICES AND RIGHT OF SELECTION:** The Respondent shall abide by and comply with the true intent of the scope of services and not take advantage of any unintentional error or omission.

**10. QUANTITIES**: Unless stated otherwise in this Bid, the BRA is obligated during the period stipulated to purchase all of its normal requirements from the successful Respondent and the Respondent is obligated to supply the quantities which the BRA requires for its operation. The quantities stated are given as a general guide for bidding but are not guaranteed amounts, they represent the best estimated usage. The BRA reserves the option to purchase more or less of these services at the Bid price.

**11. REPRESENTATIONS**: By execution and submission of this Bid, the Respondent hereby represents and warrants to the BRA that Respondent has read and understands the Bid Documents and this Bid is made in accordance with the Bid Documents.

**12. INDEMNIFICATION:** The Respondent shall comply with the requirements of all applicable laws, rules, and regulations and shall exonerate, indemnify and hold harmless the BRA from any and all liability or damages resulting from failure to do so.

In addition, the Respondent agrees to keep, save and hold the BRA harmless from any and all actions, liabilities, damages, judgments, costs and expenses including reasonable attorney's fees, in case an action is filed or does in any way accrue against the BRA, its officials, officers, and employees in consequence of the awarded contract for any negligent act or omission of the Respondent in the provision of services under the awarded contract, or that may result from the carelessness or lack of skill of the Respondent or the Respondent's officers, agent, contractors, assigns or employees. In the event a judgment is recovered against the BRA for any such liability, costs or expenses, such judgment shall be conclusive against the Respondent.

It is specifically understood and agreed by the Respondent that such indemnity is indemnity by the Respondent to indemnify and protect the BRA from liability, claims, suits, losses, damages or causes of action due to the Respondent's negligence, error or omission.

**13. EVALUATION FACTORS**: Respondents may furnish pricing for all or any portion of the solicitation (unless otherwise specified). The BRA may evaluate and award a contract for any item or group of items shown on the Solicitation, or any combination deemed most advantageous to the BRA. Bids that specify an "All or None" award may be considered if a single award is advantageous. In the event of a mathematical discrepancy on the Bid Form, the BRA will only consider the price determined to be most advantageous to the BRA.

**14. CRITERIA FOR AWARD**: The BRA will award contracts to the Respondent that represents the "Best Value" to the BRA.

**15. TERMINATION:** The awarded contract may be terminated at any time by the BRA for any cause without penalty or liability. Upon receipt of such notice, the supplier shall immediately discontinue all services and actions. The BRA shall pay the Respondent promptly the accrued and unpaid amounts due for services to the date of termination, to the extent the services are approved by the BRA.

**16. CHANGE OF CONTRACT PRICE**: The contract price may only be changed by change order or by a written amendment.

**17. PAYMENT:** Unless otherwise specified, payment for services and/or product will be processed within thirty (30) days from invoice date and acceptance of work and/or product. Invoices presented for payment must be submitted in accordance with instructions contained on the purchase order including reference to purchase order number and submittal to the correct address for processing. Unit price on invoice shall be in two (2) decimal places only, i.e., $ .XX.

The BRA has set a goal to have as much paperwork submitted electronically. Respondents are asked to submit invoices electronically to the following Accounts Payable email address: accounts. payable@brazos.org. Respondents who use the electronic service should not mail the original invoice.

**18. CONFIDENTIALITY OF DOCUMENTS:** The BRA is subject to the Texas Public Information Act (PIA). Any information submitted to the BRA by a Respondent shall be considered non-confidential and available to the public, except as follows:

In the event a Respondent considers a specific portion of their Bid to be confidential and subject to an exception to disclosure under the PIA, such portion must be clearly identified and marked "CONFIDENTIAL". Do not mark an entire proposal confidential, as this is not in conformance with the PIA and is not acceptable. Only the specific portion or portions of the Bid that the Respondent considers to be confidential pursuant to the PIA should be marked. **IF AN ENTIRE BID IS MARKED CONFIDENTIAL, THE BRA WILL NOT TREAT ANY PORTION OF THE BID AS CONFIDENTIAL AND THE BID MAY BE REJECTED AS NON-CONFORMING**. The BRA will honor notations of confidentiality made in accordance with this paragraph and decline to release such information initially. However, final determination of whether a particular portion of a Bid may in fact be withheld pursuant to the PIA will be made by the Texas Attorney General or a court of competent jurisdiction.

In the event a public information request is received for a portion of a Bid that has been marked confidential, the BRA shall ask the affected Respondent if the information may be released. If the release is agreed to, the BRA shall release the information.

If the release is denied, the matter shall be referred to the Texas Attorney General's Office in accordance with the process set forth in the PIA. The Respondent shall be fully and solely responsible for submitting arguments and evidence within the statutory timeframes to the Texas Attorney General's Office regarding its claim of confidentiality. The BRA will **NOT** submit arguments on behalf of the Respondent.

The Texas Attorney General's office shall rule on the matter. In the event that it is determined by opinion or order of the Texas Attorney General or a court of competent jurisdiction that such information may not be withheld, then such information will be made available to the requester. If it is determined that the information may be withheld, BRA will withhold the information from the requestor.

Pricing information contained in Bids or contracts is not considered confidential under the PIA and will be disclosed without making a request to the Texas Attorney General.

**REQUEST FOR BIDS**
**LANDSCAPE AND MOWING SERVICES**
**RFB NO. 21-10-1184**

## SUBMITTAL SCHEDULE

Bids are posted on the BRA website and prospective Respondents should check www.brazos.org> Doing Business>, Purchasing & Professional Services>, Request for Bids for potential updates to Bid requirements.

| | |
|---|---|
| Wednesday, October 14, 2020 | RFB is available to download from the BRA website at http://www.brazos.org/Doing-Business/Purchasing-Professional-Services/Request-for-Bids, and click on *"View this RFB".* |
| 4:00 PM, Wednesday, October 21, 2020 | Last date and time to ask questions or request additional information. Email questions to clarissa.cabrera@brazos.org |
| 4:00 PM, Thursday, October 22, 2020 | Post response to questions received as of the deadline or as soon thereafter, as an Addendum on the BRA website – www.brazos.org/ Doing Business/Purchasing and Professional Services/Request for Bids. |
| 3:00 PM, Wednesday, October 28, 2020 | Bids will be opened and read out loud virtually at the link below.<br><br>https://youtu.be/o73hwbxCiAs |

**REQUEST FOR BIDS**
**LANDSCAPE AND MOWING SERVICES**
**RFB NO. 21-10-1184**

## 1. General

The BRA is seeking bids from contractors to provide Landscape and Mowing Services at three facilities in Williamson County.

**BRA will evaluate all relevant COVID-19, health, safety and business factors on all solicitations to determine when to initiate a notice to proceed on all projects, delivery of goods and/or services or procurement of construction related services to best attempt to balance BRA needs and to protect the health and safety of BRA employees, the employees of respondents and the public at large.**

## 2. Scope of Services

Contractor agrees to provide Landscape and Mowing Services at sites listed in Table A and as needed to ensure properties are presentable and well maintained. Facility Maps with mowing areas indicated are included as Attachment A. The work shall consist of furnishing all labor personnel, equipment, chemicals, services, and appliances required for the delivery of lawn and ground maintenance services described herein. The BRA reserves the right to award all facilities or individual to the successful contractor(s).

The successful contractor shall provide a single point of contact to address all aspects of the contract, including, but not limited to, the quality of the services provided, the timeliness and schedule of the services provided, property damage mitigation, and invoicing issues and discrepancies.

A Work Ticket (Attachment B) shall be properly completed upon each service visit and signed by both the contractor and a BRA representative, preferably a Supervisor, if possible.

The work for this contract will include mowing and landscape services, application of herbicide, and treatment of fire ants.

### 2.1 Specifications

**A. Mowing and Landscape Services**

1. It is anticipated that areas will need to be mowed weekly during peak growing seasons, the contractor in conjunction with a BRA representative will determine whether or not there has been enough growth to warrant mowing. All grass should be maintained at a height of not more than two and one-half (2 ½) inches. At no time should the grass on any property exceed a height of four (4) inches. Grass shall not be mowed during drought periods.
2. Mow all areas around buildings, fences, tanks, and other structures.
3. Edge all walkways, curbs, and roadways. All debris shall be blown off from walkways and roads to maintain a professional appearance.
4. Trim grass along edges of buildings, fences (fence lines should be trimmed on both sides), walls, trees, shrubs, cracks in sidewalks, roadways, and parking areas, tanks, and other structures. Trim trees and shrubs as needed to maintain a neat and professional appearance.
5. Weed and treat areas where needed.
6. Weeding shall be performed on the same schedule as mowing. Weeding is defined as removing the unwanted plants by hand or tillage action which lightly cultivates the soil for the purpose of destroying the weeds.
7. It is anticipated that mowing, edging, trimming and weeding will be performed approximately thirty (30) times a year. However, the Brazos River Authority makes no guarantee as to the number of times the contractor will be required to mow, edge, trim and weed the property as these services shall be performed strictly on an “as needed” basis to ensure properties are presentable and being well-maintained.
8. Contractor is expected to pick up any trash on site before each mowing, and remove clippings from roadways and walkways.

**B. Application of Herbicide**

1. Apply chemicals for weed control and/or a pre-emergent as required by the Texas Department of Agriculture Licensing Program. Approval by BRA representative is required prior to any application of chemicals for weed control and/or pre-emergent.

**C. Fire Ant Treatment**

1. Twice a year, apply chemicals for fire ant control at the designated BRA facilities as required by the Texas Department of Agriculture Licensing Program.
2. Application of fire ant control will be plant wide (inside fenced perimeter) and for other areas upon approval by BRA representative.

**D. Hours of Operation**

1. The regular hours of operation for BRA personnel are from 8:00 AM to 5:00 PM Monday through Friday.
2. All landscaping, mowing, etc. is to be during regular hours of operation.

**C. Labor Force**

1. The Contractor shall provide all necessary labor and all employees of the Contractor shall be no less than 17 years of age.
2. No visitors, wives, husband, or children of the Contractor employees allowed at the work site during working hours, unless they are bona fide employees of the Contractor.
3. Employees must have at least one employee on site that can communicate effectively with the ability to effectively receive, give, and understand written and verbal communication**.**
4. Labor force used at the BRA Central Basin locations shall be regular full time employees of Contractor.

**E. Company Uniform**

1. For security purposes, employees of successful contractor must wear shirt and/or blouse identifying them as an employee of successful contractor.

**F. Security Check**

1. Successful contractor will be required to provide name, driver's license number or state identification number, and date of birth for all employees who will be providing on-site services for the BRA for a background security check prior to beginning work. Employee(s) of successful contractor who have been convicted of a felony will not be permitted to perform grounds maintenance duties at the Williamson County Facilities.

**G. Non-Emergent Requests**

1. If awarded a contract for service, the successful contractor agrees to be on-site (BRA property) within seventy-two hour notice for non-emergency problems. For example, removal of broken tree limbs, branches, after-storm clean up.

**Table – A**

**LOCATIONS, ESTIMATED ANNUAL NUMBER OF SERVICES DURING THE YEAR**

| Item | Plant/Location/Description of Work | Est. Annual Services |
|---|---|---|
| **1** | **Sandy Creek, 10400 Trails End, Leander, TX** | |
| | Mow, Edge, Trim & Weed | 30 |
| | Mow Hillside | 25 |
| | Weed Control | 2 |
| | Fire Ant Control | 2 |
| | Pre-Emergent | 1 |

| | | |
|---|---|---|
| | Additional As Needed (Price of additional regular mow, edge, trim & weed) | Unknown |
| **2** | **Hutto Central, 350 CR 199, Hutto, TX** | |
| | Mow, Edge, Trim & Weed | 30 |
| | Weed Control | 2 |
| | Fire Ant Control | 2 |
| | Pre-Emergent | 1 |
| | Additional As Needed (Price of additional regular mow, edge, trim & weed) | Unknown |
| **3** | **Hutto South, 10700 FM 1660, Hutto, TX** | |
| | Mow, Edge, Trim & Weed | 30 |
| | Weed Control | 2 |
| | Fire Ant Control | 2 |
| | Pre-Emergent | 1 |
| | Additional As Needed (Price of additional regular mow, edge, trim & weed) | Unknown |

**3. Base Bid**

Bid price to include all labor, chemicals, materials, tools, equipment and incidentals necessary.

**4. Information Required in the RFB Submittal - Tab Format**

The BRA specifically requests succinct submittals tailored to the general and discipline-specific scope of services summarized above. All submittals become the property of the BRA. Each Bid submittal shall include the information requested below.

Tab A: Include the following:

(1) Date your company was established and a brief history; number of employees; provide number and location of offices.

(2) Provide name, title and office location of person who will be the principal contact for the BRA and the billing location if different.

(3) Describe the types of organizations that your company typically serves and general nature of the work.

(4) A list and description of similar services completed within the last five years under your current company name or any other company name similar in nature to this solicitation. This should include the name, the location, a brief description of Scope of Services, and a contact name and telephone number of a reference for each client. List litigation that your company has been a party to in the last five (5) years, under your current company name or any other company name. Include only litigation that involves business units in your company that are proposed for performing services under this RFB. To be fully responsive, provide the level of detail in the attached example, as well as a name and phone number to contact an authorized representative of your company in the event that the BRA needs to clarify your response. Failure to be fully responsive will be sufficient grounds for the BRA to disqualify your company.

(5) Have you ever defaulted, failed to complete a contract or had a contract terminated by the other party? If so, where and why? Provide name and telephone number of the other party.

Tab B: Include the following:

(1) Complete and submit the attached Request for Bids – Bid Form
(2) Complete and submit the attached W-9 form.
(3) Complete and submit the attached Conflicts of Interest Questionnaire [CIQ] form.
(4) Complete and submit the Non-Collusion Affidavit form.
(5) Complete and submit the Vendor Compliance to State Law form.
(6) Submit all relevant Texas Department of Agriculture licenses

**5. RFB Inquiries**

All inquiries, including clarifying questions, related to this RFB shall **only** be directed to the Purchasing Manager via e-mail to clarissa.cabrera@brazos.org. The Purchasing Manager will direct any inquiries to the appropriate BRA staff, a response will be issued and if warranted, an Addendum will be posted on the BRA's website at www.brazos.org. **Failure to adhere to this restriction during the advertising, evaluation, and selection phases will result in the rejection of a Respondent's Bid.**

**6. Respondent's Past Performance**

BRA will consider Respondent's past performance and may conduct reference checks with other entities regarding past performance. BRA may examine Respondent's performance including, but not limited to: the Vendor Performance Tracking System, notices of termination, cure notices, assessments of liquidated damages, litigation, audit reports, repeated negative performance, records of repeated non-responsiveness to performance issues, and non-renewals of contracts. Such sources of Respondent performance may include any governmental entity, whether an agency or political subdivision of the State of Texas, another state, or the Federal government. Further, BRA may initiate such examinations of Respondent performance based upon media reports. Any such investigations shall be at the sole discretion of BRA, and any negative findings, as determined by BRA, may result in non-award to Respondent.

**7. Conflict of Interest**

Pursuant to Chapter 176 of the Local Government Code, any person or agent of a person who contracts or seeks to contract for the sale or purchase of property, goods, or services with a local government entity (i.e., Brazos River Authority) must disclose in the Conflicts of Interest Questionnaire Form ("CIQ") the person's affiliation or business relationship that might cause a conflict of interest with the local government entity. By law, the CIQ must be filed with the BRA Records Management Officer no later than seven (7) days after the date the person begins contract discussions or negotiations with the BRA, or submits an application or response to a Request for Bids, correspondence, or another writing related to a potential agreement with the BRA. Updated Questionnaires must be filed in conformance with Chapter 176.

A copy of the CIQ is attached. If you have any questions about compliance, please consult your own legal counsel. Compliance is the individual responsibility of each person or agent of a person who is subject to the filing requirement. An offense under Chapter 176 carries a penalty up to a Class A misdemeanor.

**8. Disclosure of Interested Parties**

Pursuant to Section 2252.908 of the Government Code, the selected Firm in contracts for the sale or purchase of property, goods, or services with a local government entity (i.e., BRA) anticipated to have a value of at least $250,000/$500,000 must submit a Disclosure of Interested Parties Form to the local government entity that discloses all persons at the Selected Firm who have a controlling interest in the selected Firm or who actively participated in facilitating the contract or negotiating the terms of the contract.

The requirements of Section 2252.908 of the Government Code are subject to change, and if you have any questions about compliance, please consult your own legal counsel.

https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm

**9. Term of Agreement**
The term of this Contract shall be for a period of one (1) year, commencing on the Effective Date, and may be renewed by subsequent agreement of the parties for up to four (4) additional one (1) year periods, for a total potential term of five (5) years.

**10. Contract**
The contract will be awarded to the lowest responsible Respondent. The executed contract between BRA and the selected Respondent shall be a BRA standard form contract. Contract terms are not subject to modification and Respondent will be expected to execute the contract in substantially the form provided. Respondent should not base a bid on an expectation that BRA will modify its contract terms.

The BRA reserves the right to award contract(s) without any negotiations and reserves the right to not make awards. The BRA reserves the right to conduct studies and other investigations as necessary to evaluate any submittal. Submission of a bid confers no legal right upon any Respondent.

The decision of BRA, or its designee with regard to the above, shall be administratively final. BRA, in its sole discretion, may waive administrative deficiencies and/or minor technicalities in submittals received.

**11. Insurance Requirements**
The Respondent shall, at Respondent's sole expense, maintain insurance coverage as determined acceptable to the BRA. The Respondent must obtain the following minimum insurance requirements and provide proof to the BRA prior to entering into a contract:

| | |
|---|---|
| General Liability Insurance: | |
| Bodily Injury | $ 500,000 per person |
| Bodily Injury | $ 1,000,000 per occurrence |
| Property Damage | $ 1,000,000 per occurrence |
| Aggregate | $ 2,000,000 |
| Workers' Compensation: | Statutory |
| Automobile Liability: | $ 1,000,000 per claim / aggregate |
| Employers' Liability | $ 1,000,000 policy limit |

**12. Recycled and Recyclable Products**
The BRA encourages the use of recycled products and products that may be recycled or reused.

**13. Delivery of Bid Submittals**
Bids may be submitted in one of the following manners:

**Drop Box Submission Prior to Bid Submission Deadline:** Hand delivery of one sealed clearly identified original signed paper copy submission may be received up to the bid submission deadline contained in the solicitation at the Brazos River Authority Office, 4600 Cobbs Drive, Waco, TX. 76710, utilizing the secure drop box located at the entrance of the office building.

**In-Person Delivery on Day of Bid Submission Deadline:** Hand delivery of one sealed clearly identified original signed paper copy submission may be received in person by the Purchasing Manager or other designee on the day of the bid submission deadline, up until the bid submission deadline contained in the solicitation at the Brazos River Authority Office, 4600 Cobbs Drive, Waco, TX. 76710.

**Mail-In Delivery:** Mailed by commercial carrier, overnight or express mail, one sealed clearly identified original signed paper copy submission may be accepted by the Purchasing Manager or other designee up to the bid submission deadline contained in the solicitation at the Brazos River Authority Office, 4600 Cobbs Drive, Waco, TX. 76710.

**REQUEST FOR BIDS – BID FORM**
**LANDSCAPE AND MOWING SERVICES**
**RFB No. 20-10-1184**

| Item | Plant/Location/Description of Work | Est. Annual Services | Unit Price |
|---|---|---|---|
| **1** | **Sandy Creek, 10400 Trails End, Leander, TX** | | |
| | Mow, Edge, Trim & Weed | 30 | |
| | Mow Hillside | 25 | |
| | Weed Control | 2 | |
| | Fire Ant Control | 2 | |
| | Pre-Emergent | 1 | |
| | Additional As Needed (Price of additional regular mow, edge, trim & weed) | Unknown | |
| **2** | **Hutto Central, 350 CR 199, Hutto, TX** | | |
| | Mow, Edge, Trim & Weed | 30 | |
| | Weed Control | 2 | |
| | Fire Ant Control | 2 | |
| | Pre-Emergent | 1 | |
| | Additional As Needed (Price of additional regular mow, edge, trim & weed) | Unknown | |
| **3** | **Hutto South, 10700 FM 1660, Hutto, TX** | | |
| | Mow, Edge, Trim & Weed | 30 | |
| | Weed Control | 2 | |
| | Fire Ant Control | 2 | |
| | Pre-Emergent | 1 | |
| | Additional As Needed (Price of additional regular mow, edge, trim & weed) | Unknown | |

**ACKNOWLEDGMENT OF REQUEST FOR BIDS AND**

## RECEIPT OF ADDENDA

**RESPONDENT MUST ACKNOWLEDGE RECEIPT OF THIS REQUEST FOR BIDS AND ADDENDA BY SIGNING BELOW AND SUBMITTING THIS ACKNOWLEDGEMENT WITH YOUR BID. FAILURE TO SIGN THIS ACKNOWLEDGEMENT WILL DISQUALIFY THE BID AS NON-RESPONSIVE. SIGNATURE SHALL BE HAND WRITTEN.**

This acknowledgement shall become part of your response and the subsequent contract documents if applicable.

**ACKNOWLEDGMENT OF REQUEST FOR BIDS:**
Respondent hereby acknowledges that it has received and read the Request for Bids and all Addenda, and that this Bid is made in accordance with the provisions thereof. Respondent acknowledges that this Bid meets or exceeds all terms, requirements, conditions, and/or specifications set forth in the Request for Bids and Addenda, and exceptions or deviations from such terms, requirements, conditions, and/or specifications, if any, have been clearly and conspicuously identified as such in the Bid.

**Does your company have 10 or more full time employees? Check one box only.**

☐ **YES** ☐ **NO**

_____
Name of Firm (Respondent)

_____
Signature – Authorized Representative

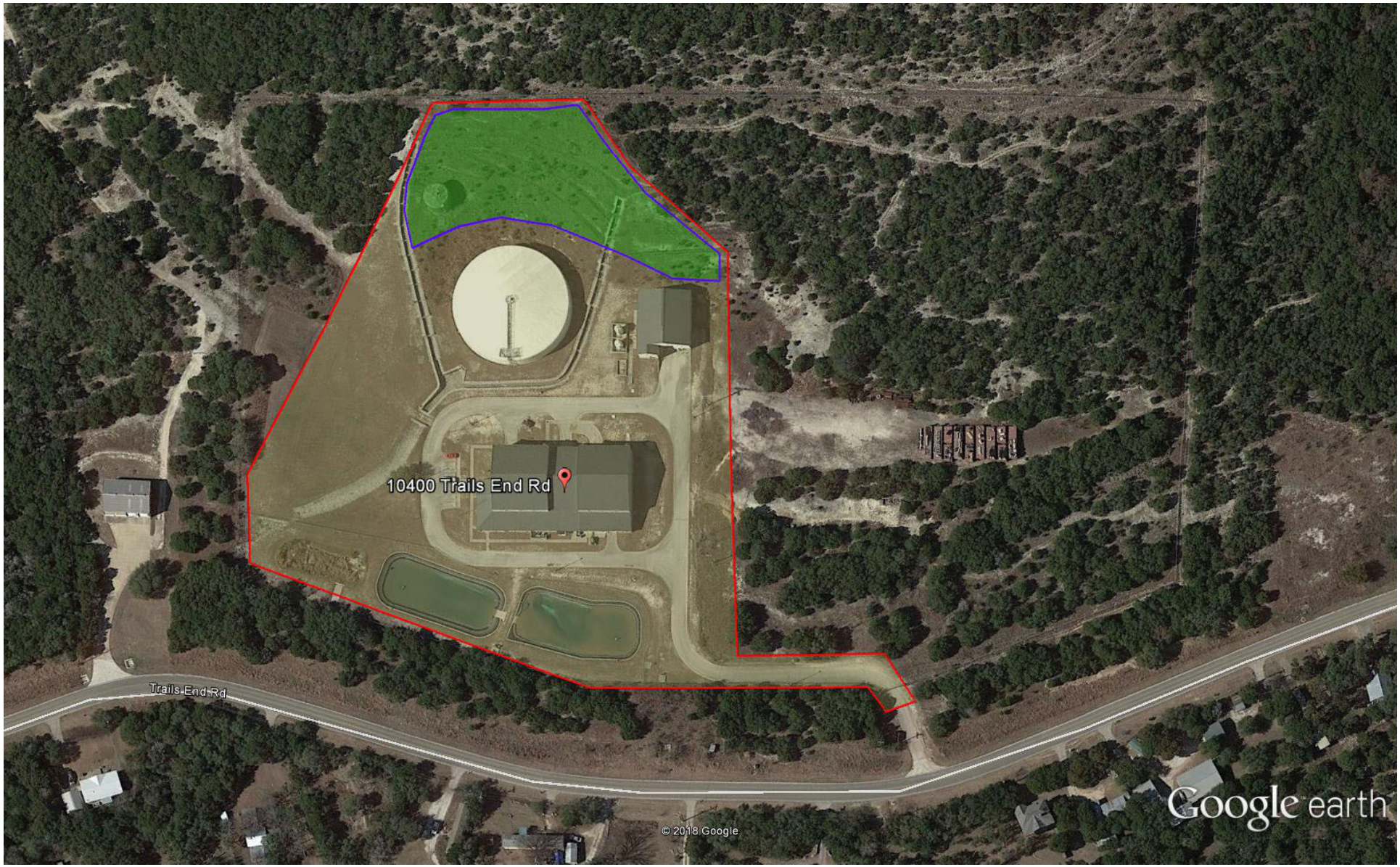
_____
Printed Name

_____
Date

_____
E-mail Address

_____
Telephone Number

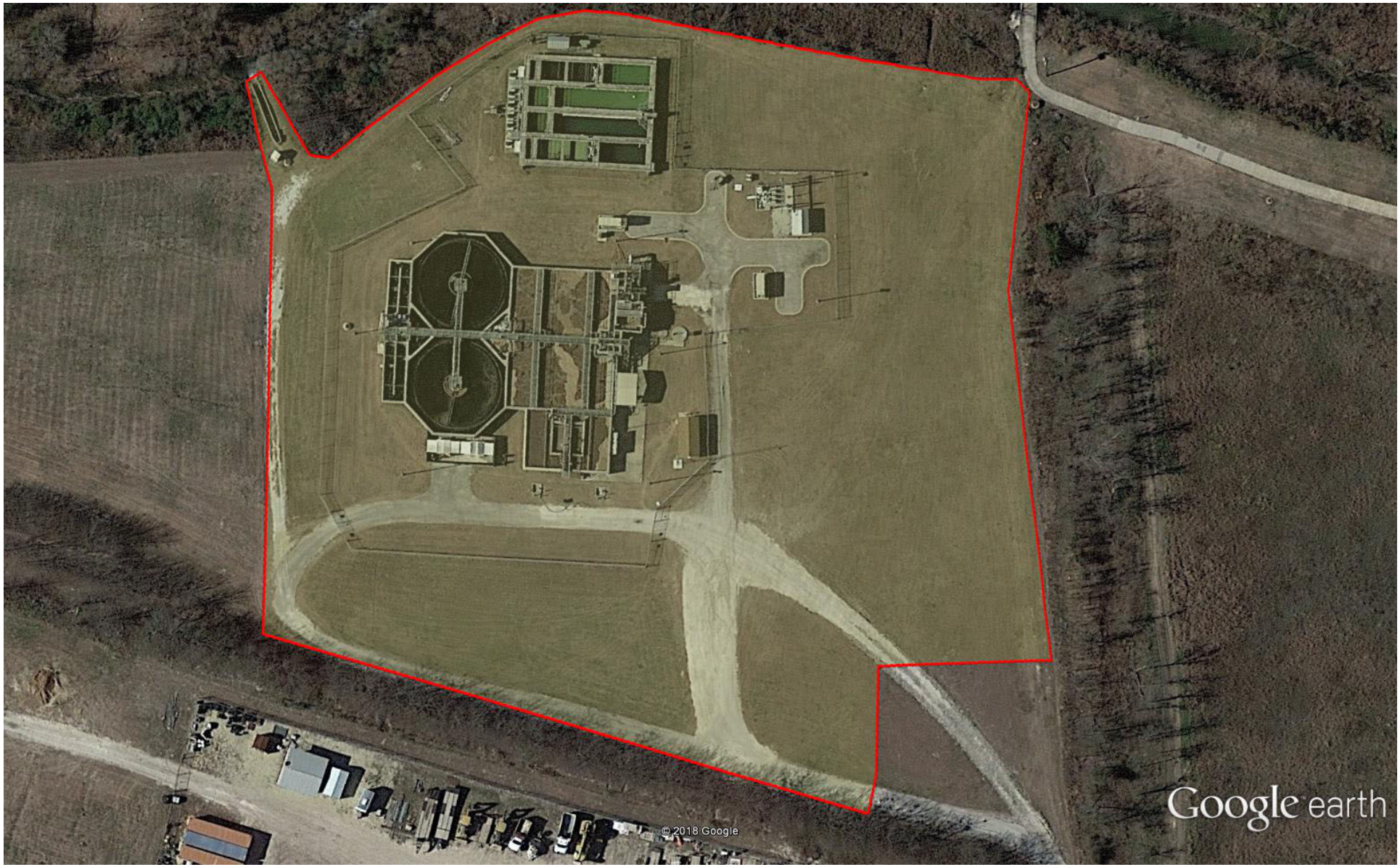
Sandy Creek WTP - 10400 Trails End Road, Leander, TX 78641




feet 1000

Note: Full service inside designated area with the exception of area indicated in green which is rocky, steep grade that could require hand trimmer operation. Chemical application only with prior written approval by BRA representative

Hutto Central WWTP - 350 CR 199, Hutto, TX 78634




feet 500

Note: Full service in fenced area, mowing only outside fenced area

Hutto South WWTP - 10700 FM 1660, Hutto, TX 78634

feet 700

Note: Full service inside fence and maintain 3-5 foot perimeter outside of fence.

**ATTACHMENT B**
**WORK TICKET**

[Contractor Name, Address, phone number]

**Date:** _____ **Property Serviced:** _____

**Services Provided:**

Mow, Edge, Trim & Weed …….. ☐

Weed Control ……... ☐

Fire Ant Control …… ☐

Pre-Emergent ……... ☐

Hillside Mowing (Sandy Creek Only) …… ☐

Comments:

_____
_____
_____
_____
_____

**Contractor Representative:**

Printed Name: _____Signature:_____

**BRA Representative:**

Printed Name: _____Signature:_____

**Work ticket must accompany invoice**

# NON-COLLUSION AFFIDAVIT

STATE OF TEXAS §
§
COUNTY OF _____ §

By the signature below, the signatory for the bidder certifies that neither he nor the firm, corporation, partnership or institution represented by the signatory or anyone acting for the firm bidding this project has violated the antitrust laws of this State, codified at Section 15.01, *et seq.*, Texas Business and Commerce Code, or the Federal antitrust laws, nor communicated directly or indirectly the bid made to any competitor or any other person engaged in the same line of business, nor has the signatory or anyone acting for the firm, corporation or institution submitting a bid committed any other act of collusion related to the development and submission of this bid proposal.

Signature: _____

Printed Name: _____

Printed Name: _____

Title: _____

Company: _____

Date: _____

SUBSCRIBED and sworn to before me the undersigned authority by _____ the _____ of, _____on behalf of said bidder.

_____
Notary Public in and for the
State of Texas

My commission expires: _____

# CONFLICT OF INTEREST QUESTIONNAIRE

**FORM CIQ**

**For vendor doing business with local governmental entity**

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

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

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

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

**OFFICE USE ONLY**

Date Received

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

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

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

_____

Name of Officer

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

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

☐ Yes ☐ No

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

☐ Yes ☐ No

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

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

7

_____ _____

Signature of vendor doing business with the governmental entity Date

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

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

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

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

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

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

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

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

***

(2) the vendor:

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

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

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

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

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

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

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

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

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

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

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

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

(1) the date that the vendor:

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

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

(2) the date the vendor becomes aware:

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

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

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

## VENDOR COMPLIANCE TO STATE LAW

Section 2252.002, Texas Government Code, provides that, in order to be awarded a contract as low bidder, non-resident bidders (out-of-state contractors whose corporate offices or principal place of business are outside of the State of Texas) bid projects for construction, improvements, supplies or services in Texas at an amount lower than the lowest Texas resident bidder by the same amount that a Texas resident bidder would be required to underbid a non-resident bidder in order to obtain a comparable contract in the State in which the non-resident's principal place of business is located. The appropriate blanks in Section A must be filled out by all out-of-state or non-resident bidders in order for your bid to meet specifications. The failure of out-of-state or non-resident contractors to do so will automatically disqualify that bidder. Resident bidders must check the box in Section B.

A. Non-resident vendors in _____ (give state), our principal place of business, are required to be _____ percent lower than resident bidders by state law. A copy of the statute is attached.

Non-resident vendors in _____(give state), our principal place of business, are not required to underbid resident bidders.

B. Our principal place of business or corporate office is in the State of Texas.

☐ Please Check or mark with an "X"

BIDDER:

_____ By:_____Company
(please print)

_____ Signature:_____
(please print)

_____ Title: _____
(please print)

City / State _____ Zip _____

THIS FORM MUST BE RETURNED

**EXAMPLE RESPONSE TO LITIGATION HISTORY QUESTION**

| Date | Parties | Nature/Description of Litigation | Outcome |
|---|---|---|---|
| 2010 | XYZ, Inc. v. Owner | Owner brought suit against XYZ, Inc. claiming flawed design of a concrete pad. | XYZ, Inc. Nonsuited |
| 2011 | XYZ, Inc. v. Owner | XYZ, Inc. retained to design bike path, the path collapsed in construction and owner sued XYZ, Inc. and contractor | Settled |
| 2012 | XYZ, Inc. v. Contractor | Contractor claimed XYZ, Inc. negligent on a project where Contractor was constructing a tower and the tower allegedly incorporated incorrect materials. XYZ, Inc. disputes the allegations. | Ongoing |

Form **W-9**
(Rev. October 2018)
Department of the Treasury
Internal Revenue Service

# Request for Taxpayer Identification Number and Certification

▶ Go to *www.irs.gov/FormW9* for instructions and the latest information.

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

**Print or type.**
See **Specific Instructions** on page 3.

**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 of the person whose name is entered on line 1. Check only **one** of the following seven boxes.

☐ Individual/sole proprietor or single-member LLC ☐ C Corporation ☐ S Corporation ☐ Partnership ☐ Trust/estate

☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ▶ _____

**Note:** Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is **not** disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.

☐ 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) _____

*(Applies to accounts maintained outside the U.S.)*

**5** Address (number, street, and apt. or suite no.) See instructions.

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 instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN,* later.

**Note:** If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* 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 for Part II, later.

**Sign Here** **Signature of U.S. person ▶** **Date ▶**

# General Instructions

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

**Future developments**. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to *www.irs.gov/FormW9.*

## 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, *later.*

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,* later, 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 Pub. 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 24% 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 instructions for Part II 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,* later, and the separate Instructions for the Requester of Form W-9 for more information.

Also see *Special rules for partnerships,* earlier.

## 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,* later, 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 (other than an account maintained by a foreign financial institution (FFI)), list first, and then circle, the name of the person or entity whose number you entered in Part I of Form W-9. If you are providing Form W-9 to an FFI to document a joint account, each holder of the account that is a U.S. person must provide a 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 on line 3 for the U.S. federal tax classification of the person whose name is entered on line 1. Check only one box on line 3.

| IF the entity/person on line 1 is a(n) . . . | THEN check the box for . . . |
|---|---|
| • Corporation | Corporation |
| • Individual<br>• Sole proprietorship, or<br>• Single-member limited liability company (LLC) owned by an individual and disregarded for U.S. federal tax purposes. | Individual/sole proprietor or single-member LLC |
| • LLC treated as a partnership for U.S. federal tax purposes,<br>• LLC that has filed Form 8832 or 2553 to be taxed as a corporation, or<br>• LLC that is disregarded as an entity separate from its owner but the owner is another LLC that is not disregarded for U.S. federal tax purposes. | Limited liability company and enter the appropriate tax classification. (P= Partnership; C= C corporation; or S= S corporation) |
| • Partnership | Partnership |
| • Trust/estate | Trust/estate |

## Line 4, Exemptions

If you are exempt from backup withholding and/or FATCA reporting, enter in the appropriate space on 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. If this address differs from the one the requester already has on file, write NEW at the top. If a new address is provided, there is still a chance the old address will be used until the payor changes your address in their records.

### 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.

If you are a single-member LLC that is disregarded as an entity separate from its owner, 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 *What Name and Number To Give the Requester,* later, 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. Go to *www.irs.gov/Forms* to view, download, or print Form W-7 and/or Form SS-4. Or, you can go to *www.irs.gov/OrderForms* to place an order and have Form W-7 and/or SS-4 mailed to you within 10 business days.

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 item 1, 4, or 5 below indicates 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), ABLE accounts (under section 529A), 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) other than an account maintained by an FFI | The actual owner of the account or, if combined funds, the first individual on the account[1] |
| 3. Two or more U.S. persons (joint account maintained by an FFI) | Each holder of the account |
| 4. Custodial account of a minor (Uniform Gift to Minors Act) | The minor[2] |
| 5. a. The usual revocable savings trust (grantor is also trustee) | The grantor-trustee[1] |
| b. So-called trust account that is not a legal or valid trust under state law | The actual owner[1] |
| 6. Sole proprietorship or disregarded entity owned by an individual | The owner[3] |
| 7. 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:** |
| 8. Disregarded entity not owned by an individual | The owner |
| 9. A valid trust, estate, or pension trust | Legal entity[4] |
| 10. Corporation or LLC electing corporate status on Form 8832 or Form 2553 | The corporation |
| 11. Association, club, religious, charitable, educational, or other tax-exempt organization | The organization |
| 12. Partnership or multi-member LLC | The partnership |
| 13. A broker or registered nominee | The broker or nominee |
| 14. 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 |
| 15. 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,* earlier.

***Note:** The 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 Pub. 5027, Identity Theft Information for Taxpayers.

Victims of identity theft who are experiencing economic harm or a systemic 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 report them at *www.ftc.gov/complaint.* You can contact the FTC at *www.ftc.gov/idtheft* or 877-IDTHEFT (877-438-4338). If you have been the victim of identity theft, see *www.IdentityTheft.gov* and Pub. 5027.

Visit *www.irs.gov/IdentityTheft* 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.

# SERVICE PROVIDER CONTRACT

In consideration of the mutual promises as set forth below, this Service Provider Contract ("Contract") is entered into this ___ day of _____, 2018 ("Effective Date"), by and between **PROVIDER NAME** ("PROVIDER"), with a mailing address of **ADDRESS**, and the Brazos River Authority, ("BRA"), with a mailing address of 4600 Cobbs Drive, Waco, Texas 76710.

## Section I. Performance of Work

**1.1** The PROVIDER hereby agrees to provide, perform, and complete to the satisfaction of the BRA all of the "Work" specified in Exhibit "A", attached hereto and incorporated by reference herein **[ADD IF APPLICABLE:** , and the Bid Documents, incorporated by reference herein**]**. The term "Work" as used herein shall mean the detailed description of tasks to be performed by the PROVIDER, as established in Exhibit "A". **[ADD IF APPLICABLE:** In the event this Contract and the Bid Documents conflict, this Contract shall supersede the Bid Documents.**]**

**1.2** In performing the Work, the PROVIDER shall provide all necessary labor, services, transportation, information, data, and other means and items necessary to perform the Work.

**1.3** The PROVIDER hereby covenants and agrees, as an independent contractor, to perform the Work required in strict accordance with the terms and provisions of this Contract and in a manner consistent with the level of care and skill ordinarily exercised for similar services in the State of Texas.

**1.4** It is understood that the BRA has a vested interest in the quality of the Work to be performed under this Contract, and thus may make suggested revisions or recommendations regarding the Work to be performed under this Contract. The PROVIDER may accept or reject any such suggestions or recommendations. Acceptance of any such suggestions or recommendations shall not relieve the PROVIDER from any of PROVIDER's responsibilities or obligations under this Contract.

## Section II. Contract Price and Payment

**2.1** Payments for performance of the Work contemplated by this Contract shall be in the amount and in accordance with the provisions set forth in Exhibit "B", attached hereto and incorporated by reference herein.

**2.2** Nothing contained in this Contract shall require BRA to pay for any Work that is unsatisfactory as determined by BRA or which is not submitted in compliance with the terms of this Contract.

**2.3** BRA will not be required to make any payments to the PROVIDER, when the PROVIDER is in default under this Contract, nor shall this paragraph constitute a waiver

of any right, at law or in equity, which BRA may have if the PROVIDER is in default, including the right to bring legal action for damages or for specific performance of this Contract. Waiver of any default under this Contract shall not be deemed a waiver of any subsequent default. Nothing contained herein shall be construed as authorizing additional fees for services to complete actions not specifically listed for successful completion of the Work.

## Section III. Term

**3.1** The term of this Contract shall be for a period of one (1) year, commencing on the Effective Date, and may be renewed by subsequent agreement of the parties for up to four (4) additional one (1) year periods, for a total potential term of five (5) years. **[OR IF APPLICABLE:** The services of the PROVIDER shall commence on the Effective Date of this Contract and shall continue until the Work is completed.**]**

**3.2** The PROVIDER additionally agrees to abide by any and all schedules or timing representations set forth in Exhibit "A".

## Section IV. Revisions to Work

**4.1** BRA reserves the right to direct substantial revision of the Work after acceptance by BRA as BRA may deem necessary; but in such event BRA shall pay the PROVIDER equitable compensation for services rendered in making such revisions. In any event, when the PROVIDER is directed to make substantial revisions that are in addition to or alter the Scope of Work established in Exhibit "A", the PROVIDER shall provide to BRA a written proposal for the entire cost involved in the revisions.

**4.2** Prior to the PROVIDER undertaking any substantial revisions as directed by BRA, BRA must authorize in writing the nature and scope of the revisions, accept the method and amount of compensation, and the time required to perform all phases of the Work.

**4.3** If revisions of the Work are required by reason of the PROVIDER'S error or omission, then such revisions shall be made by the PROVIDER without additional compensation and in a time frame as directed by BRA.

**4.4** It is expressly understood and agreed by the PROVIDER that any compensation not specified in "Exhibit B" shall require prior written approval by BRA.

## Section V. The Provider's Coordination with BRA

**5.1** The PROVIDER shall be available for conferences with BRA so that Work can be completed with the full benefit of BRA experience and knowledge of existing needs and facilities and be consistent with current policies and standards of the BRA. BRA shall make available to the PROVIDER all existing plans, maps, field notes, and other data in its possession relative to the Work.

## Section VI. Termination

**6.1** This Contract may be terminated at any time by BRA for any cause without penalty or liability. Upon receipt of such notice by BRA, the PROVIDER shall immediately discontinue all services and actions on behalf of BRA.

**6.2** As soon as practicable after receipt of notice of termination, the PROVIDER shall submit a statement showing in detail the costs of services performed but not paid for under this Contract through the date of termination. The PROVIDER will forward to BRA all portions of the Work performed through the date of termination. BRA shall then pay the PROVIDER promptly the accrued and unpaid amounts due for services to the date of termination, to the extent the services are approved by BRA.

## Section VII. Default

**7.1** BRA may terminate this Contract without prejudice to any other remedy it may have, when the PROVIDER defaults in performance of any provision herein, or fails to carry out the Work in accordance with the provisions of this Contract.

**7.2** On such termination, BRA may take possession of all the intellectual property prepared or gathered to date **[OR IF APPLICABLE:** equipment, and/or parts pertinent to the equipment, repaired or purchased to date**]** in performance of the Work and finish the Work in whatever way BRA deems expedient. On such default by the PROVIDER, BRA may elect not to terminate the Contract, and in such event, BRA may make good the deficiency in which the default consists, and deduct the costs from the Contract sum to become due to the PROVIDER.

## Section VIII. Insurance

**8.1** The PROVIDER shall, at PROVIDER'S sole expense, maintain insurance coverage as set forth below:

| | |
|---|---|
| General Liability Insurance: | |
| Bodily Injury | $ 500,000 per person |
| Bodily Injury | $ 1,000,000 per occurrence |
| Property Damage | $ 1,000,000 per occurrence |
| Aggregate | $ 2,000,000 |
| Workers' Compensation: | Statutory |
| Automobile Liability: | $ 1,000,000 per claim / aggregate |
| Employers' Liability | $ 1,000,000 policy limit |
| Pollution Liability | $ 1,000,000 per claim / aggregate |

**8.2** The PROVIDER shall not commence Work under the Contract until the PROVIDER has obtained all the insurance required under this Contract and such insurance has been approved by BRA, nor shall the PROVIDER allow any subcontractor to commence Work on the PROVIDER's subcontract until all requisite insurance of the subcontractor has been obtained and approved by BRA. All required policies shall name BRA as an additional insured, except Workers' Compensation and Employers' Liability Insurance and Professional Liability Insurance (as applicable). As proof of the PROVIDER's insurance coverage, the PROVIDER shall furnish to BRA valid certificates of insurance of the types and limits required herein, listing BRA as the certificate holder and additional insured, prior to commencing Work on the project. In the event PROVIDER's insurance coverage does not provide for automatic additional insured coverage, PROVIDER shall provide BRA an additional insured endorsement along with its certificate. As proof of insurance coverage by the PROVIDER's subcontractors, the PROVIDER shall furnish to BRA such subcontractors' valid certificates of insurance of the types and limits required herein, including additional insured endorsements listing BRA as an additional insured under such policies. In addition, the required insurance coverage shall contain a provision that coverage afforded under the policies will not be materially changed or canceled without provision of thirty (30) days written notice to BRA. The insurance requirements shall remain in effect throughout the term of the Contract.

**8.3** Concerning insurance to be furnished by the PROVIDER, it is a condition precedent to acceptability thereof that:

**i.** Any policy submitted shall not be subject to limitations, conditions or restrictions deemed inconsistent with the intent of the requirements to be fulfilled by the PROVIDER; and

**ii.** All policies are to be written through companies duly approved to transact that class of insurance in the State of Texas.

**8.4** The PROVIDER agrees to the following:

**i.** The PROVIDER hereby waives subrogation rights for loss or damage to the extent same are covered by insurance. Insurers shall not have the right to recovery or subrogation against BRA, it being the intention that the insurance policies shall protect all parties to the Contract and be primary coverage for all losses covered by the policies;

**ii.** Companies issuing the insurance policies and the PROVIDER shall have no recourse against BRA for payment of any premiums, or assessments for any deductible, as all such premiums are the sole responsibility and risk of the PROVIDER.

**iii.** Approval, disapproval or failure to act by BRA regarding any insurance supplied by the PROVIDER (or any subcontractors) shall not relieve PROVIDER

of full responsibility or liability, if any, for damages and accidents as set forth in the Contract. Neither shall the insolvency or denial of liability by the insurance company exonerate the PROVIDER from liability.

**iv.** No special payments shall be made for any insurance that the PROVIDER and subcontractors, if any, are required to carry; all are included in the Contract price and the Contract unit prices; and

**v.** Any of the insurance policies required under this section may be written in combination with any of the others, where legally permitted, but none of the specified limits may be lowered thereby.

## Section IX. No Third Party Beneficiary

**9.1** No claim as a third-party beneficiary under this Contract by any person, firm, or corporation shall be made or be valid against the BRA, and the BRA shall not be liable for or be held to pay any money to any such person.

## Section X. Successors and Assigns

**10.1** The PROVIDER shall not assign this Contract in whole or part, assign any of its rights or obligations under this Contract or assign any payment due or to become due under this Contract, without the prior, express written consent of the BRA.

**10.2** Any attempted or purported assignment by the PROVIDER without the BRA's approval shall be void and of no force and effect and shall constitute a default under this Contract.

## Section XI. Liability

**11.1** Acceptance of the Work by BRA shall not constitute nor be deemed a release of the responsibility and liability of the PROVIDER, its employees, agents, assigns or subcontractors for the accuracy and competency of the Work contemplated by this Contract.

**11.2** The PROVIDER shall be solely and completely responsible for performing the Work with diligence and in a manner consistent with the level of care and skill ordinarily exercised for such similar services in the State of Texas.

## Section XII. Indemnification

**12.1** THE PROVIDER SHALL COMPLY WITH THE REQUIREMENTS OF ALL APPLICABLE LAWS, RULES AND REGULATIONS AND SHALL EXONERATE, INDEMNIFY AND HOLD THE BRA HARMLESS FROM ANY AND ALL LIABILITY OR DAMAGES RESULTING FROM FAILURE TO DO SO.

**12.2** IN ADDITION, THE PROVIDER AGREES TO KEEP, SAVE AND HOLD BRA HARMLESS FROM ANY AND ALL ACTIONS, LIABILITIES, DAMAGES, JUDGMENTS, COSTS AND EXPENSES INCLUDING REASONABLE ATTORNEY'S FEES, IN CASE AN ACTION IS FILED OR DOES IN ANY WAY ACCRUE AGAINST BRA, ITS OFFICIALS, OFFICERS, AND EMPLOYEES IN CONSEQUENCE OF THIS CONTRACT FOR ANY NEGLIGENT ACT OR OMISSION OF THE PROVIDER IN THE PERFORMANCE OF THE WORK UNDER THIS CONTRACT, OR THAT MAY RESULT FROM THE CARELESSNESS OR LACK OF SKILL OF THE PROVIDER OR THE PROVIDER'S AGENTS, SUBCONTRACTOR, ASSIGNS OR EMPLOYEES. IN THE EVENT A JUDGMENT IS RECOVERED AGAINST BRA FOR ANY SUCH LIABILITY, COSTS OR EXPENSES, SUCH JUDGMENT SHALL BE CONCLUSIVE AGAINST THE PROVIDER.

**12.3** IT IS SPECIFICALLY UNDERSTOOD AND AGREED BY THE PROVIDER THAT SUCH INDEMNITY IS INDEMNITY BY THE PROVIDER TO INDEMNIFY AND PROTECT BRA FROM LIABILITY, CLAIMS, SUITS, LOSSES, DAMAGES OR CAUSES OF ACTION CAUSED BY OR RESULTING FROM AN ACT OF NEGLIGENCE, INTENTIONAL TORT, INTELLECTUAL PROPERTY INFRINGEMENT, OR FAILURE TO PAY A SUBCONTRACTOR OR SUPPLIER COMMITTED BY THE PROVIDER, THE PROVIDER'S AGENT, CONSULTANT UNDER CONTRACT, OR ANOTHER ENTITY OVER WHICH THE PROVIDER EXERCISES CONTROL. BRA AGREES TO GIVE PROVIDER PROMPT NOTICE OF ANY CLAIM, CONTROL OF THE DEFENSE OR SETTLEMENT OF THAT CLAIM AND REASONABLE ASSISTANCE AND INFORMATION RELATED TO THE CLAIM.

## Section XIII. Confidentiality

**13.1** During the performance of this Contract, the PROVIDER has or will have access to confidential or proprietary information belonging to BRA. The PROVIDER herein agrees to maintain the confidentiality of the information received from BRA and information derived from performance of the Work.

**13.2** This obligation shall not apply to information already in the public domain or to disclosures required by law, including the Texas Public Information Act.

## Section XIV. Severability

**14.1** If any of the terms, sections, subsections, sentences, clauses, phrases, provisions, covenants, or conditions of this Contract are for any reason held to be invalid, void or unenforceable, the remainder of the terms, sections, subsections, sentences, clauses, phrases, provisions, covenants, or conditions of this Contract shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

## Section XV. Independent Contractor

**15.1** The PROVIDER covenants and agrees that PROVIDER is an independent contractor and not an officer, agent, servant or employee of BRA. The PROVIDER hereby acknowledges that it shall have exclusive control of and exclusive right to control the details of the Work, performed hereunder, and all persons performing same, and shall be liable for the acts and omissions of its officers, agents, employees, and subcontractors.

**15.2** In addition, the PROVIDER agrees that the doctrine of respondeat superior shall not apply as between BRA and the PROVIDER and nothing herein shall be construed as creating a partnership or joint enterprise between BRA and the PROVIDER.

## Section XVI. Disclosure

**16.1** By signature of this Contract, the PROVIDER acknowledges to BRA that PROVIDER has made full disclosure in writing of any existing conflicts of interest or potential conflicts of interest, including personal financial interests, direct or indirect.

**16.2** The PROVIDER further agrees that PROVIDER will make disclosure in writing of any conflicts of interest, which develop subsequent to the signing of this Contract and prior to final payment under the Contract.

## Section XVII. Compliance with Laws and Licenses

**17.1** The PROVIDER shall at all times observe and comply with all the provisions of the laws of the State of Texas and Federal laws, rules and regulations which in any manner limit, control, or apply to the actions or operations of the PROVIDER, his subcontractor(s), or his or their employees, agents or servants, engaged in performance of the Work.

## Section XVIII. Venue and Choice of Law

**18.1** The parties to this Contract agree and covenant that this Contract will be enforceable in McLennan County, Texas and that if legal action is necessary to enforce this Contract, exclusive venue will lie in McLennan County, Texas.

**18.2** This Contract shall be construed under Texas law (without regard for choice of law considerations).

## Section XIX. Entire Agreement

**19.1** This Contract sets forth the entire agreement between the BRA and the PROVIDER with respect to the accomplishment of the Work and the payment of the Contract price therefore, and there are no other understandings or agreements, oral or written, between the BRA and the PROVIDER with respect to the Work and the compensation therefore, nor was the making and execution of this Contract induced by any representation, statement, warranty, agreement, or action other than those expressed or explicitly referenced herein.

## Section XX. Amendments

**20.1** No modification, addition, deletion, revision, alteration or other change to this Contract shall be effective unless and until such change is reduced to writing and executed by the BRA and the PROVIDER.

## Section XXI. Headings

**21.1** The headings of this Contract are for the convenience of reference only and shall not affect in any manner any of the terms and conditions hereof.

## Section XXII. Remedies

**22.1** No right or remedy granted herein or reserved to the parties is exclusive of any other right or remedy herein by law or equity provided or permitted; but each shall be cumulative of every other right or remedy given hereunder. No covenant or condition of this Contract may be waived without consent of the parties. Forbearance or indulgence by either party shall not constitute a waiver of any covenant or condition of this Contract.

## Section XXIII. Review of Contract

**23.1** The PROVIDER has carefully examined, reviewed, and accepted this Contract and there are no discrepancies, errors, omissions, ambiguities or conflicts in this Contract that are material to the PROVIDER'S provision, performance or completion of the Work, the Contract price or Contract schedule that have not been clarified in writing by the BRA to the satisfaction of the PROVIDER.

## Section XXIV. Right to Audit

**24.1** The PROVIDER shall establish and maintain a reasonable accounting system that enables BRA to readily identify the PROVIDER's assets, expenses, costs of goods, and use of funds. BRA and its authorized representatives shall have the right to audit, to examine, and to make copies of or extracts from all financial and related records (in whatever form they may be kept, whether written, electronic, or other) relating to or pertaining to this Contract kept by or under the control of the PROVIDER, including, but not limited to those kept by the PROVIDER, its employees, agents, assigns, successors, and subcontractors. Such records shall include, but not be limited to, accounting records, written policies and procedures; subcontract files (including proposals of successful and unsuccessful bidders, bid recaps, etc); all paid vouchers including those for out-of-pocket expenses; other reimbursement supported by invoices; ledgers; canceled checks; deposit slips; bank statements; journals; original estimates; estimating work sheets; Contract amendments and change order files; backcharge logs and supporting documentation; insurance documents; payroll documents; timesheets; memoranda; and correspondence.

**24.2** The PROVIDER shall, at all times during the term of this Contract and for a period of ten years after the completion of this Contract, maintain such records, together with

such supporting or underlying documents and materials. The PROVIDER shall at any time requested by BRA, whether during or after completion of this Contract, and at the PROVIDER's own expense make such records available for inspection and audit (including copies and extracts of records as required) by BRA. Such records shall be made available to BRA during normal business hours at the PROVIDER's office or place of business and subject to a three day written notice. In the event that no such location is available, then the financial records, together with the supporting or underlying documents and records, shall be made available for audit at a time and location that is convenient for BRA.

**24.3** The PROVIDER shall ensure BRA has these rights with the PROVIDER's employees, agents, assigns, successors, and subcontractors, and the obligations of these rights shall be explicitly included in any subcontracts or agreements formed between the PROVIDER and any subcontractors to the extent that those subcontracts or agreements relate to fulfillment of the PROVIDER's obligations to BRA.

## Section XXV. Prohibition on Boycotting Israel

**25.1** PROVIDER hereby verifies that PROVIDER:

**i.** Does not boycott Israel; and

**ii.** Will not boycott Israel during the term of this Contract.

## Section XXVI. Notices

**26.1** All notices, communications, and reports required under the Contract shall be personally delivered or mailed to the respective parties by certified mail, return receipt requested at the addresses shown below, unless and until either party is otherwise notified in writing by the other party of a change in address. Mailed notices shall be deemed communicated as of five (5) days after mailing regular mail.

If intended for BRA, to:

4600 Cobbs Drive
Waco, Texas 76710

If intended for the PROVIDER, to:

**ADDRESS**

*[Signatures appear on the following page]*

IN WITNESS WHEREOF, the parties have caused this Contract to be duly executed, intending to be bound thereby.

| **BRAZOS RIVER AUTHORITY** | **PROVIDER NAME** |
|---|---|
| By: _____ | By: _____ |
| **DAVID COLLINSWORTH** | |
| Title: **GENERAL MANAGER/CEO** | Title: _____ |
| Date: _____ | Date: _____ |

**ACKNOWLEDGEMENTS**

THE STATE OF TEXAS §
COUNTY OF _____ §

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared _____ known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledge to me that they executed same for and as the act and deed of **PROVIDER NAME** and for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the ___ day of _____, 2018.

_____
Notary Public, State of Texas

THE STATE OF TEXAS §
COUNTY OF McLENNAN §

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared **David Collinsworth**, General Manager/CEO, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledge to me that they executed same for and as the act and deed of **BRAZOS RIVER AUTHORITY** and for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the ___ day of _____, 2018.

_____
Notary Public, State of Texas

# EXHIBIT A
# SCOPE OF WORK

# EXHIBIT B
# COMPENSATION