



COUNTY OF EL PASO  
County Purchasing Department  
800 E. Overland, Suite 300  
El Paso, Texas 79901  
Phone (915) 546-2048

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### Notice to Interested Parties

The County of El Paso will receive Sealed Bids for **Bid 23-008 As-Needed Paving Emulsion for the County of El Paso (FY2023)**, until **2:00 p.m.**, on **Thursday, February 9, 2023**, at which time and place all bids will be publicly opened and read aloud. Submission may be electronic or hardcopy.

Electronic responses must be submitted through [epcountypurchasing.ionwave.net](http://epcountypurchasing.ionwave.net). Hardcopies must be submitted to the Purchasing Department Office, 800 East Overland, Rm. 300, El Paso, Texas 79901.

*Hardcopy submissions only:*

*Sealed Bid **MUST BE IN A SEALED ENVELOPE AND MARKED:**  
"Bid to be opened Thursday, February 9, 2023  
As-Needed Paving Emulsion for the County of El Paso (FY2023)  
Bid 23-008"*

**Solicitation documents are attached herein. Do not contact the requesting department.** Any questions by interested vendors must be entered on the Question tab of the e-bidding system or emailed to: [bidquestions@epcounty.com](mailto:bidquestions@epcounty.com) before **Thursday, January 26, 2023 at 12:00 p.m.** If emailed, "Subject Line" should be the Bid Number and Title. Attempts to circumvent this requirement may result in rejection of the bid as non-compliant.

Any changes to the bid, specifications or other documents will be marked as an addendum to the solicitation. It shall be the respondent's responsibility to check the e-bid system prior to the Opening Date to verify whether any addendums have been issued.

All bid openings will occur via live video feed at the County YouTube Channel: [https://www.youtube.com/channel/UCXwqc\\_JYs28xwL14oGAVPZg/videos](https://www.youtube.com/channel/UCXwqc_JYs28xwL14oGAVPZg/videos). During the live broadcast, citizens may call in at telephone (915) 546-2048 ext. 2357. Allow for a 10-second delay during the live broadcast.

Award shall be let to the lowest responsible bidder, and the COMMISSIONER'S COURT RESERVES THE RIGHT TO REJECT ANY AND ALL BIDS AND WAIVE

TECHNICALITIES. Successful bidder shall not order items or services until a Purchase Order is received from the County Purchasing Office. Payment will not be made on items delivered without a Purchase Order. Payment shall be made through County current funds after completion of goods or services. Purchase Orders will be issued as required. Contract will be awarded by lump sum or line item, whichever is in the best interest of the County.

If the contract is for the construction of public works or is under a contract exceeding \$100,000 the bidder shall furnish a good and sufficient Bid Bond in the amount of 5% of the total contract price executed with a surety company authorized to do business in the State of Texas and must be included in the bid package. A cashier's check may be provided in lieu of a bid bond and made payable to the order of County of El Paso. Successful bidder must comply with all performance bond, payment bond, and insurance certificate requirements.

The County of El Paso reserves the right to reject any or all Bids or to waive any technicalities in the bidding. Bids may be held by the County of El Paso for a period not to exceed ninety (90) days, or such longer time as may be required by the funding agencies, from the date of the bid opening for the purpose of reviewing the for the purpose of reviewing the Bids and investigating the qualifications of Bidders, prior to awarding of the Contract.

KAREN L. DAVIDSON  
Purchasing Agent

# **As-Needed Paving Emulsion for the County of El Paso (FY2023)**

**Bid 23-008**



**Opening Date  
Thursday, February 9, 2023**

## Contents

<b>Specifications/ Scope of Work .....</b>	<b>5</b>
<b>General Requirements .....</b>	<b>7</b>
<b>Non-Collusion Affidavit of Contractor .....</b>	<b>22</b>
<b>Non-Collusion Affidavit of Subcontractor .....</b>	<b>23</b>
<b>Bid Bond .....</b>	<b>24</b>
<b>Certificate as to Corporate Principal .....</b>	<b>25</b>
<b>Check Return Authorization Form .....</b>	<b>26</b>
<b>Safety Record Questionnaire .....</b>	<b>27</b>
<b>Civil Litigation Certification .....</b>	<b>28</b>
<b>Self-Disclosure of Environmental Safety Violations .....</b>	<b>29</b>
<b>County of El Paso Code of Ethics Training Affidavit .....</b>	<b>31</b>
<b>Certifications .....</b>	<b>33</b>
<b>Conflicts of Interest .....</b>	<b>37</b>
<b>Health Insurance Benefits Questionnaire .....</b>	<b>40</b>
<b>Local Business Preference Policy .....</b>	<b>41</b>
<b>Certificate of Interested Parties .....</b>	<b>47</b>
<b>El Paso County Signature Page .....</b>	<b>49</b>
<b>Bid Check List .....</b>	<b>50</b>

## Specifications/ Scope of Work

El Paso County Public Works – Road and Bridge Department is seeking a supplier to provide up to **600,000 gallons of polymer modified emulsified asphalt (HFMS-2P)**.

The County seeks to award a contract for the qualified vendor to provide material on a price per gallon unit cost contract. The contract will be for one year from the date of execution by both parties or until the maximum amount of material as specified herein is supplied, whichever occurs first.

Emulsion is ordered on an as needed daily basis by the Road and Bridge Department and delivered to various locations in El Paso County using 6,000-gallon DOT approved tankers (as needed). Once the vendor arrives at this location, the emulsion may be transferred to the County’s truck for use on that day.

Upon award, the company must give the County a time deadline for next day deliveries. On or before this deadline, the County shall call the company with the amount of emulsion for the next day delivery. Deliveries are made to the County Monday through Friday. Orders for Monday delivery are placed on Friday.

The County may seek to order more than 600,000 gallons if necessity arises due to paving processes. Any gallons ordered in excess of 600,000 will be provided at the same unit price/gallon listed on the Bid Price Sheet. The total aggregate increase in cost cannot be greater than 25% of the Total Cost quoted on the Bid Price Sheet.

**Product: HFMS-2P** is a high float emulsified asphalt emulsion containing polymer-modified asphalt and water in accordance with the requirements of the attached table or an approved equal per specifications in the “Texas Department of Transportation Specs for Highway and Bridge Construction, Section 300”. If an equivalent product is proposed, provide specifications for the product with bid response. All freight must be included in bid price.

### Standard Specifications for Polymer-Modified Emulsified Asphalt

Test Parameter	Test Method	Specification
Viscosity, Saybolt Furol at 122° F, Seconds	AASHTO T59	100-450
Sieve Test, Retained on No. 20 sieve, %	AASHTO T59	0.10-
Storage Stability, 1 Day, %	AASHTO T59	1-
Demulsibility, 50 mL, 0.10 N, CaCl, %	AASHTO T59	40+
Residue from Distillation to 400° F, %	AASHTO T59	65+
Oil Distillate by Volume of Emulsion, %	AASHTO T59	3-
Tests on Residue from Distillation Test	Test Method	Specification
Penetration at 77° F, 100g, 5 sec, 0.1 mm	AASHTO T49	100-200
Elastic Recovery at 50° F, %	AASHTO T301	60+
Float Test at 140° F, Seconds	AASHTO T50	1200+

**BID PRICE SHEET**

**Bid 23-008  
As-Needed Paving Emulsion  
Material for the County of El Paso  
(FY2023)**

Company Name: \_\_\_\_\_ Address: \_\_\_\_\_

Contact Name: \_\_\_\_\_ Telephone: \_\_\_\_\_

Email Address: \_\_\_\_\_

**Note:** Any vendor that does not submit pricing in price sheet provided **will not** be considered for award.

Bidder will provide the material in accordance with the Contract Documents for the following price(s):

Item	Description	Estimated Units	Unit Price/Gallons	Total Price
1	Paving Emulsion Material (HFMS-2P)	Up to 600,000 gallons	\$	\$

Bidder acknowledges that estimated quantities are not guaranteed and are solely for the purpose of comparison of Bids, and final payment for all Unit Price Bid items will be based on actual quantities, determined as provided in the contract Documents.

**Based on available budget and Unit Price, gallons purchased may vary.**

The undersigned certifies that the bid prices contained in this bid have been carefully reviewed and are submitted as correct and final. Bidder further certifies and agrees to furnish any and/or all product/service upon which prices are extended at the price offered, and upon the conditions in the specifications of the Invitation for Bid.

I hereby certify that the foregoing bid has not been prepared in collusion with any other bidder or other person or persons engaged in the same line of business prior to the official opening of this bid. Further, I certify that the bidder is not now, nor has been for the past six (6) months, directly or indirectly concerned in any pool or agreement or combination to control the price of product/service bid on, or to influence any person or persons to bid or not to bid thereon."

Signed \_\_\_\_\_ Printed Name \_\_\_\_\_

Title \_\_\_\_\_ Date \_\_\_\_\_

## **General Requirements**

### **County of El Paso, Texas**

**IT IS THE SUBMITTING VENDOR'S RESPONSIBILITY TO READ THIS ENTIRE DOCUMENT CAREFULLY, UNDERSTAND THE INSTRUCTIONS, AND FULFILL ALL REQUIREMENTS INDICATED HEREIN.**

These General Requirements are considered standard language for all County of El Paso Sealed Bid solicitations. If any "specific Bid requirements" differ from the General Requirements listed here, the "specific Bid requirements" shall prevail.

#### **BID PACKET**

Bids may be submitted virtually or as a hard copy. The bid packet must contain all requested and supporting documentation and must demonstrate the vendor's ability to meet the specifications and requirements detailed for this Sealed Bid. By submitting a Bid, the vendor understands they are submitting at their own risk and expense, the County is not liable for any costs incurred in preparing the response to this solicitation.

**Hard Copy Submittals:** The Bid packet must be enclosed in a sealed envelope clearly labeled with the solicitation number, project name, and name of submitting vendor. The packet must be in the Purchasing Department Office BEFORE the opening hour and date specified. Late submittals will not be considered under any circumstances. Packets sent via express mail or overnight delivery must have the solicitation number and project name clearly marked on the outside of the envelope or package. Failure to clearly identify your packet may be cause for disqualification. Bid packets received prior to the advertised hour of opening will be kept securely sealed. The officer whose duty it is to open them will decide when the specified time has arrived.

**Virtual Submittals:** The Bid packet must be submitted by the Closing Date and Time specified. It is the firm's responsibility to ensure all documents are successfully uploaded and entered information is accurate and complete before submitting. **A MISSED SUBMISSION WILL NOT BE ACCEPTED UNDER ANY CIRCUMSTANCES.** Bids received prior to the indicated Closing Date and Time will be kept virtually sealed until the officer whose duty it is to open the Sealed Bid, unseals virtually.

Faxed or e-mailed packets will be rejected.

#### **AUTHORIZED SIGNATURE**

Any individual signing on behalf of the vendor expressly affirms that he or she is duly authorized to tender this Bid and to sign the resulting contract. The submitting vendor further understands that the signing of the contract shall be of no effect unless subsequently awarded and the contract properly executed by Commissioners' Court.

The signature acknowledges that the submitting vendor has read the Sealed Bid documents thoroughly before submitting a response and will fulfill the obligations in accordance with the County of El Paso. Failure to complete and sign the required document(s) may disqualify the Bid from being considered.

## VIRTUAL SUBMITTALS

**Google Chrome, Microsoft Edge, or a current internet browser that supports JavaScript is the recommended internet browser for use of the e-bidding system.**

The County of El Paso uses Ion Wave Technologies as their third party bid management provider. Vendors that choose to submit virtually may submit through the electronic bidding (e-bidding) platform: <http://elpasotexaspurchasing.ionwave.net>. The County's e-bidding system will be accessible to registered users provided a unique username and password.

Submission of electronic documents with digital signatures and seals, including (without limitation) photocopied or .pdf forms or submittals, are binding and enforceable. The submitting vendor shall provide original documents upon request.

The County of El Paso is not responsible for non-delivery of an electronic response, including but not limited to equipment or software failure, internet failure, user error, or missed notification from e-bidding system. Vendors shall be solely responsible for informing themselves of the proper use of the electronic bidding platform and keep their information true and current to ensure all notices are received.

A bid packet may also be completed online, printed, and turned in as a hardcopy. In which case, the vendor must include the Signature Page provided in this solicitation. Any Bid that is submitted as a hard copy and received by the Purchasing Department prior to the indicated date and time, will be entered manually as an electronic entry after the opening. Once the manual response entry is complete, the vendor will receive a "Registration Invitation" email from Ion Wave. Only the link sent through this email will connect the vendor information to their submitted response.

## ADDENDA

No oral interpretation of the solicitation will be made to any vendor, or as to the meaning of any part thereof. The County is not bound by any oral representations, clarifications, or changes made in the specifications by the County's employees, unless such clarification or change is publicly posted. Every request for such an interpretation shall be made in writing to the County of El Paso Purchasing Department. Any inquiry received prior to the deadline for questions, will be given consideration, complied, and answers published as an addendum.

If it becomes necessary to revise or address any part of this Sealed Bid, a written notice of such revision will be posted as an addendum. The addendum will address the nature of the clarification or change before the solicitation is set to open. It shall be the vendor's responsibility to verify if any Addenda have been issued. All such Addenda shall become part of the contract and all submitting vendors shall be bound by such Addenda, whether or not received by the vendor.

## COMMUNICATIONS

**To prevent biased considerations and to preserve the competitiveness and integrity of such procurement efforts, vendors are to direct all communications regarding this Sealed Bid to the El Paso County Purchasing Agent or assigned designee.**



## CONTRACTOR INVESTIGATION

Before submitting a bid, each vendor shall make all investigations and examinations necessary to ascertain all site conditions and requirements affecting the full performance of the contract and to verify any representations made by the County upon which the vendor will rely. If the vendor receives an award as a result of its submission, failure to have made such investigations and examinations will in no way relieve the vendor from its obligation to comply in every detail with all provisions and requirements of the contract, nor will a plea of ignorance of such conditions and requirements be accepted as a basis for any claim whatsoever for additional compensation. **Site visits are restricted to the date designated in the Sealed Bid details.**

## ESTIMATED QUANTITIES AND ACCURACY OF DATA

Any reference to quantities shown in the solicitation are an estimate only. Since the exact quantities cannot be predetermined, the County reserves the right to adjust quantities as deemed necessary to meet its requirements. Information and data provided through this solicitation are believed to be reasonably accurate.

## PRICING

Pricing will be either lump sum or per unit as indicated in the specifications. A breakdown of the lump sum quote shall also be provided. Unit prices must be all-encompassing (i.e., labor, materials, removal, overhead, etc.). If there are discrepancies between unit prices quoted and extensions, the unit price will prevail. Pricing on all transportation, freight or other charge is to be paid by the vendor and included in the pricing, unless otherwise agreed to by both parties. Submissions with incomplete prices or supporting information may be disregarded and given no consideration. Bids involving equipment shall offer new (unused) equipment or merchandise unless otherwise specified. Prices for all goods and/or services shall be considered firm and cannot be altered after the submission deadline. Pricing subject to unlimited increases will not be accepted. All pricings should not include tax either directly or indirectly, the County will sign tax exemption certificates covering these items.

**The net monetary values of change orders, if any, shall not increase the original contract price by more than twenty-five (25%), unless required to comply with a new law, rule, regulation, or judicial decision. The original contract price must not be decreased by twenty-five (25%) or more without the consent of the vendor.** There is an exception to these for items not covered in the specifications as provided.

If only one (1) response is received, a detailed cost breakdown may be requested. A cost/price analysis and evaluation and/or audit may be performed in order to determine if the pricing is fair and reasonable.

## ALTERNATE OFFER

No alternative bids will be considered unless specifically requested in the technical specifications.

## DELIVERY AND SHIPPING

All delivery and freight charges shall be F.O.B. destination, if otherwise, show exact cost to deliver (merchandise only). The awarded vendor shall not deliver products or provide services as part of this contract without a County of El Paso purchase order signed by the Purchasing Agent. Delivered products or services shall not exceed the amounts specified on the purchase order.

## MODIFICATION

A bid packet may be modified up until the time of opening. Bids may not be amended or altered after the official opening with the single exception that any product literature and/or supporting data required by the actual specifications, if any, will be accepted at any time prior to the Commissioners' Court consideration of same. No substitutions or cancellations for merchandise will be permitted without written approval of the County Purchasing Agent.

**Hard Copy Submittals:** The modification must be requested in writing prior to the submission deadline. Modifications, erasures, or other changes must be sealed, and explained or noted with initial or signature of the authorized individual signing the bid packet. All figures must be written in ink or typed; figures written in pencil are not acceptable.

**Virtual Submittals:** Bids may be retracted, corrected, and re-submitted as needed prior to the indicated Closing Date and Time. Any bid that is retracted for corrections **must be re-submitted** to be considered. A missed submission will not be considered under any circumstances.

## WITHDRAWAL

Vendors may withdraw their bid packet prior to the scheduled opening time but may not be withdrawn for a period of sixty (60) calendar days after opening.

**Hard Copy Submittals:** The request for withdrawal must be submitted to the Purchasing Agent in writing.

**Virtual Submittals:** Vendors may retract their response prior to the scheduled closing time and date. Selecting "No Bid" and including a reasoning is highly encouraged.

## AWARD

Pursuant to the Texas Local Government Code, bids shall be awarded to the responsible bidder who submits the lowest and best bid.

The County reserves the right to accept or reject all or any part of the bid, waive minor technicalities, or to award by item or by lump sum. The awarded vendor(s) will be notified at the earliest possible date.

A vendor whose bid does not meet the mandatory requirements set forth in this solicitation will be considered noncompliant. The criteria utilized for determining responsibility includes, but is not limited to, the bidder's experience, skill, ability, business judgment, financial capacity, integrity, honesty, possession of the necessary facilities or equipment, previous performance,

reputation, promptness, and any other factor deemed relevant by the County to determine whether a bidder is responsible. The County reserves the right to adopt or use for its benefits, any concept, plan, or idea contained in any solicitation response.

Each vendor by submitting a response, agrees that if its bid is accepted by the Commissioners' Court, such vendor will furnish all items and services upon the terms and conditions in this solicitation and contract.

A vendor must give written notice that they intend to protest an award. The vendor has the right to appear before the commissioner's court. under rules established by the court. Protest Procedures are available for download on the Purchasing Department - Doing Business with the County webpage <http://epcounty.com/purchasing/business.htm>.

## DELAYS

The County reserves the right to delay the scheduled commencement date of the contract if it is to the advantage of the County. There shall be no additional costs attributed to these delays should any occur. The submitting vendor agrees it will make no claim for damages, for damages for lost revenues, for damages caused by breach of contract with third parties, or any other claim by the vendor attributed to these delays, should any occur. In addition, the submitting vendor agrees that any contract it enters into with any third party in anticipation of the commencement of the contract will contain a statement that the third party will similarly make no claim.

## RESULTANT CONTRACT

The resultant contract shall become effective upon the Commissioners' Court approval and the County Judge's signature. The contract documents shall consist of all the documents pertinent to the requested work including the contract, solicitation, technical requirements, addenda, submitted bid, and any additional documents specified.

Within thirty (30) days after the prescribed forms are presented for signature, the awarded firm shall execute and deliver to the County an Agreement the material terms of this Sealed Bid document in such number of copies as the County may require.

The Contract will require the completion of the work according to the contract documents. The term of the resultant contract will begin as stated in the contract executed by the Commissioners' Court and will terminate on the date specified in the contract unless terminated earlier as herein set forth.

## SUBCONTRACTING/ASSIGNMENT

Vendors shall not assign, sell, or otherwise transfer its contract in whole or in part without prior written permission of Commissioners' Court. Such consent, if granted, shall not relieve the awarded vendor of any of its responsibilities under this contract.

## DEFAULT BY VENDOR

In case of default by the vendor, the County may procure the articles or services from other sources and may deduct from any monies due, or that may thereafter become due, the difference between the price named in the contract or purchase order and the actual cost thereof to the County. Prices paid by the County shall be considered the prevailing market price at the time such purchase is made. Periods of performance may be extended if the facts as to the cause of delay justify such extension in the opinion of the Purchasing Agent and the Commissioners' Court.

## TAX EXEMPTION

Pursuant to Section 151.309 of the Texas Tax Code, El Paso County qualifies for exemption from sales, excise and use taxes imposed under the Limited Sales, Excise, and Use Tax Act, which is codified at Chapter 151 of the Texas Tax Code. In accordance with Section 151.309, a taxable item sold, leased, or rented to, or stored, used, or consumed by the County is exempt from the taxes imposed under Chapter 151.

## INVOICES AND PAYMENTS

An invoice should be submitted after the notice to proceed date or a purchase order has been received and after the delivery and/or service has been completed. Invoices must indicate the purchase order number and/or contract number and should be itemized. Any invoice, which cannot be verified by the contract price and/or is otherwise incorrect, will be returned for correction. Under term contracts, when multiple deliveries and/or services are required, the items may be invoiced in groups or individually. Invoice payment term is net thirty (30). Prior to any and all payments made for goods and/or services provided under the contract, the vendor's W9 must be on file with the County Auditor's office. **Bidder must include a current, signed copy of their W9 in their bid response.** Failure to provide this information may result in a delay in payment and/or back-up withholding as required by the Internal Revenue Service.

## NON-APPROPRIATIONS

Submitting vendor acknowledges that funding to pay for support and services referenced herein is subject to annual appropriations by the County's governing body, and any termination, liability, indemnity, other provision in the Terms to the contrary does not apply to the County. In the event such funds are not appropriated in any fiscal year for support and services, the County may terminate the agreement between the parties upon no less than thirty (30) days prior written notice without incurring any termination liability or penalty. Such termination will not affect the County's obligation with respect to payment for satisfactory service or support received through the termination date

## DISCLOSURES

At the time and place fixed for the solicitation opening, the County will open and publicly read aloud every bid packet received, irrespective of any technicalities therein. Vendors and other persons properly interested may be present, in person or by representative. Interested parties may view live openings through County of El Paso ITD's YouTube channel, [https://www.youtube.com/channel/UCXwcq\\_JYs28xwL14oGAVPZg](https://www.youtube.com/channel/UCXwcq_JYs28xwL14oGAVPZg).

All information contained in the bid is available for public review. Requests must be made in writing and submitted by mail, in person, fax, or email to the Purchasing Department. Additional information may be found in the section titled "PUBLIC INFORMATION ACT".

## PUBLIC INFORMATION ACT

County of El Paso is a governmental body for purposes of the Public Information Act, codified as Chapter 552 of the Texas Government Code and as such is required to release information in accordance with the Public Information Act. **VENDOR MUST MARK ANY INFORMATION THAT IT CONSIDERS TO BE CONFIDENTIAL, PROPRIETARY, AND/OR TRADE SECRET IN ITS BID PACKET.** If items are not marked CONFIDENTIAL, County of El Paso will not be liable for disclosing the information. County agrees to provide notice to the vendor in accordance with the Public Information Act in the event the County receives a request for information under the Public Information Act for information that the vendor has marked as confidential, proprietary, and/or trade secret.

## EXEMPTIONS TO GENERAL REQUIREMENTS

Exceptions to the requirements of the solicitation may be submitted on a separate document labeled, "Exceptions to General Requirements", and included in the bid packet. If no exceptions are stated, it will be understood that all requirements will be complied with, without exception.

The exceptions document must specify alternatives or suggested language for consideration by the County. Alternatives should be sufficiently described, labeled, and should indicate its possible or actual advantage. The County reserves the right to offer these alternatives to other vendors.

## RESTRICTIVE SPECIFICATIONS

It is the responsibility of the submitting vendor to review the entire specifications/scope of work, additional requirements, and to notify the Purchasing Department if the specifications are formulated in a manner that would restrict competition or appear ambiguous. Any such protest or question(s) regarding the specifications or procedures must be received in the Purchasing Department no less than seventy-two (72) hours prior to the time set for the solicitation opening. The mention of any brand name or model in the specifications is not intended to be restrictive but is intended to describe the desired features, quality, or standards of existing comparable items. Submitting vendors to propose an approved equal shall submit evidence that the item is equivalent in capability or characteristics.

## SUBSTITUTES

It is not the County's intent to discriminate against any material of equal merit to those specified, however, should the proposer desire to use any substitutions prior written approval shall be obtained from the County Purchasing Agent sufficiently in advance in order that an addendum might be issued.

## RECYCLED MATERIAL

Under Local Government Code Section 262.005 and Health & Safety Code Section 361.426, the County is required to give preference to products made of recycled materials if they meet specifications. The County is also required to encourage the use of recycled products in developing new procedures and specifications. They are also required to eliminate procedures and specifications that explicitly discriminate against products made of recycled materials.

## REQUIREMENTS AND INTEGRITY

The submitting vendor must affirmatively demonstrate its responsibility, and follow the minimum requirements:

- Have been in business of providing services for a minimum of one (1) year;
- Have adequate financial resources or the ability to obtain such resources as required;
- Be able to comply with all federal, state, and local laws, rules, regulations, ordinances and orders regarding this Sealed Bid solicitation;
- Have satisfactory record of performance;
- Have a satisfactory record of integrity and ethics; and
- Be otherwise qualified and eligible to receive an award.

## PROOF OF INSURANCE

Awarded vendor shall submit to the County, for approval, within ten (10) days from the date of award, all Certificates of Insurance evidencing the required coverage as described herein.

**Submitting vendor agrees that, at its own cost and expense, it shall procure and maintain throughout the duration of the contract the following listed insurance in the designated amounts:**

### Insurance Requirements

#### General Liability:

Each Occurrence	\$1,000,000
General Aggregate	\$1,000,000
Personal & Advertising Injury	\$1,000,000 each person
Premises Medical Expense	\$5,000
Damage to Rented Premises	\$500,000 each occurrence
Products/Completed Operations - Aggregate:	(see <u>Contract Amounts</u> for required limits)

Automobile Liability: \$1,000,000 each occurrence

Worker's Compensation: \$1,000,000/\$1,000,000/\$1,000,000  
each accident/disease policy limit/each employee

Additional Insurance Requirements May Apply per Contract (When Applicable)

Professional Liability:	\$1,000,000 for E&O/Professional Insurance
Cyber Liability:	\$1,000,000 per claim and in the annual aggregate (Must include 1 <sup>st</sup> and 3 <sup>rd</sup> party coverage)
Excess Umbrella Liability:	(see <u>Contract Amounts</u> for required limits)

The Description of Operations section should include the job description or project name and solicitation number for which the insurance is provided. The General Liability and Auto Liability policies so issued in the name of Bidder/Vendor shall also name the County of El Paso as an additional insured. The General Liability, Auto Liability and Workers' Compensation policies so issued in the name of Bidder/Vendor shall reflect the Waiver of Subrogation in favor of County of El Paso. Umbrella (if applicable) is to follow form.

All policies of insurance shall be written by insurance underwriters authorized to do business in the State of Texas. Insurance is to be placed with insurers having a best rating of no less than A. The certificates and endorsements for each insurance policy are to be signed by a person authorized by the insurer to bind coverage on its behalf.

The County reserves the right to review the insurance requirements during the effective period of the contract and to require adjustment of insurance coverage and their limits when deemed necessary and prudent by the County based upon changes in statutory law, court decisions, or the claims history of the industry as well as the contractor. All Certificates shall provide the County with an unconditional thirty (30) days written notice in case of any major change or cancellation.

Contract Amounts for Products/ Completed Ops and Umbrella Coverage

Insurance requirements according to total contract amount.

Total Contract Amount	Products/Completed Ops	Umbrella
Less than \$100,000 :	\$1,000,000	n/a
\$100,000 - \$5,000,000 :	\$2,000,000	\$2,000,000 per occurrence/aggregate
\$5,000,001 - \$15,000,000 :	\$2,000,000	\$5,000,000 per occurrence/aggregate

Umbrella Liability: Excess liability insurance to cover above the limits of automobile liability and other commercial general liability policies.

Professional Liability: This liability is needed for professional services, also known as error and omission insurance.

Cyber Liability: This liability covers intangible assets. If the vendor should use or have access to County data or any internal system, cyber liability may be needed.

Hazardous Substance (pollution) Liability: Vendors may need pollution liability when the work includes risks to hazardous waste exposure, or environmental threats or pollution that might occur as a result of the work.



## INDEMNIFICATION

**TO THE EXTENT PERMISSIBLE BY LAW, THE CONTRACTOR SHALL PROTECT, DEFEND, INDEMNIFY AND SAVE HARMLESS THE OWNER, ITS OFFICERS, AGENTS, AND EMPLOYEES FROM AND AGAINST SUITS, ACTIONS, CLAIMS, LOSSES, LIABILITY OR DAMAGE OF ANY CHARACTER AND FROM AND AGAINST COSTS AND EXPENSES, INCLUDING IN PART, ATTORNEY FEES, INCIDENTAL TO THE DEFENSE OF SUCH SUITS, ACTIONS, CLAIMS LOSSES, DAMAGES OR LIABILITY ON ACCOUNT OF INJURY, DISEASE, SICKNESS, INCLUDING DEATH, TO ANY PERSON, OR DAMAGE TO PROPERTY, INCLUDING IN PART THE LOSS OF USE RESULTING THEREFROM, BASED UPON OR ALLEGEDLY BASED UPON ANY ACT, OMISSION OR OCCURRENCE OF THE CONTRACTOR OR HIS EMPLOYEES, AGENTS, SUBCONTRACTORS, OR SUPPLIERS, OR ANYONE ELSE UNDER THE CONTRACTOR'S DIRECTION AND CONTROL, (REGARDLESS IF CAUSED IN PART BY A PARTY INDEMNIFIED HEREUNDER), AND ARISING OUT OF, OCCURRING IN CONNECTION WITH, RESULTING FROM, OR CAUSED BY THE PERFORMANCE OR FAILURE OF PERFORMANCE OF ANY WORK OR SERVICES CALLED FOR BY THE CONTRACT, OR FORM CONDITIONS CREATED BY THE PERFORMANCE OR NO-PERFORMANCE OF SAID WORK OR SERVICES.**

## RETAINAGE

The awarding contract will provide for **five percent (5%) retainage** as defined in Texas Government Code Sec. 2252.031; "retainage" means the part of a public works contract payment withheld by a governmental entity to secure performance of the contract.

## BID BOND

The bid bond must be submitted on the form provided by the county in this solicitation, excisions or special conditions shall not be made or included.

Pursuant to section 262.032 of the Texas Local Government, if the contract is for the construction of public works or is under a contract exceeding \$100,000, the bid specifications or request for proposals may require the bidder to furnish a good and sufficient bid bond in the amount of five percent (5%) of the total contract price. A bid bond must be executed with a surety company authorized to do business in this state. BIDS SUBMITTED WITHOUT THE REQUIRED BID BOND OR CASHIER'S CHECKS WILL BE REJECTED. Certified cashier's checks or bid bonds of unsuccessful bidders will be returned as soon as practical after the opening date. If the vendor is withdrawing their Bid, check will be returned promptly. If a cashier's check is provided the Check Return Authorization Form, provided by the county in this solicitation, must be included with the check.

The Bid Bond must ensure the execution of the contract. Revised Bids submitted before the opening of bids, whether forwarded by mail, if representing an increase in excess of two percent (2%) of the original Bid, must have the Bid Bond adjusted accordingly, otherwise the Bid will not be considered. A cashier's check may be provided in lieu of a bid bond and, similarly, must be adjusted of an increase in excess of two percent (2%).

Virtual Submittals: Vendors that submit virtually and elect to provide a cashier's check, the check must be physically dropped off in a sealed envelope before the opening date and time. The envelope must include the Check Return Authorization Form and be labeled with the bid number and project name.



## PERFORMANCE BOND AND PAYMENT BOND

The performance and payment bonds must be submitted on the forms provided by the county in this solicitation, excisions or special conditions shall not be made or included. Only required of awarded vendor(s).

Pursuant to Texas Government Code Sec. 2253.021, a governmental entity that makes a public work contract with a prime contractor shall require the contractor, before beginning the work, to execute to the governmental entity, a performance bond if the contract is in excess of \$100,000. As well as pursuant to Texas Local Government Code Section 262.032(b), any successful vendor who is awarded any contract in excess of \$50,000 may be required to execute a performance bond to the County.

Pursuant to Texas Government Code Sec. 2253.021, a governmental entity that makes a public work contract with a prime contractor shall require the contractor, before beginning the work, to execute to the governmental entity a payment bond if the contract is in excess of \$25,000.

Having satisfied all conditions of award, the successful vendor shall furnish the two (2) surety bonds within ten (10) days from the date of Award, each in a penal sum of 100% of the amount of the Contract. These bonds shall be signed by a surety company listed in the latest issue of the U.S. Treasury Circular 570 and such surety must be authorized to do business in Texas. The current power of attorney for the person who signs for any surety company shall be attached to such bonds.

Failure to supply the required bonds within ten (10) days, or within such extended period as the County may grant, the County may rescind its award and may either award the contract to the next qualified responsible vendor or re-advertise the solicitation. The County may charge the vendor the difference between their original price and the amount for which a Contract for the work is subsequently executed, irrespective of whether the amount thus due exceeds the amount of the Bid Bond. If a more favorable Bid is received by re-advertising the defaulting Bidder shall have no claim against the County for a refund.

## NO BOYCOTT OF ISRAEL

In accordance with Chapter 2271 of the Texas Government Code, a company, other than a sole proprietorship, with ten or more full time employees is required to certify in writing that it does not boycott Israel and will not boycott Israel during the term of the contract, if the contract has a value of \$100,000 or more.

## NO BOYCOTT OF FIREARM ENTITIES OR FIREARMS TRADE ASSOCIATIONS

In accordance with Chapter 2274 of the Texas Government Code, a company, other than a sole proprietorship, with ten or more full time employees is required to verify in writing that it does not discriminate against, and will not discriminate during the term of the contract against a firearm entity or firearm trade association, if the contract has a value of \$100,000 or more.

## SOVEREIGN AND/OR GOVERNMENTAL IMMUNITY

The County specifically reserves any claim it may have to sovereign, governmental qualified, or official immunity as a defense to any action arising in conjunction with this contract.

## COUNTY OF EL PASO CODE OF ETHICS TRAINING

**County of El Paso Code of Ethics Training Affidavit:** Any vendor involved in a single procurement exceeding \$50,000 must read and sign the El Paso County Code of Ethics Training Affidavit that is included in each response packet. By reading and signing the Affidavit form, the vendor has confirmed that they have been trained in the El Paso County Code of Ethics. The training must be completed by an officer, principal, or other person with the authority to bind the company. The ethics training affidavit must be submitted using the document provided by the county in this solicitation, excisions or special conditions shall not be made or included.

**Optional On-Line Training:** As an alternative to reading and completing the El Paso County Code of Ethics Training Affidavit, in compliance with Section 161 of the Texas Local Government Code, the training on the El Paso County Code of Ethics is accessible in an online format to Vendors and Lobbyists on an ongoing basis, subject only to limitations due to technical resources. The optional On-Line Training may be accessed and completed at: [http://www.epcounty.com/ethicscom/trainingvendor\\_files/frame.htm](http://www.epcounty.com/ethicscom/trainingvendor_files/frame.htm). If completed on-line, **the training receipt should be printed out and included in the submission packet.**

## CERTIFICATIONS

Certifications regarding lobbying, debarment, suspension and other responsibility matters; drug-free workplace requirements; federal debt status, and nondiscrimination status and implementing regulations, must be submitted using the documents provided by the county in this solicitation, excisions or special conditions shall not be made or included.

Texas is required to obtain from all applicants of federal funds or pass-through certifications regarding federal debt status, debarment and suspension, and a drug free workplace. Institutional applicants are required to certify that they will comply with the nondiscrimination statutes and implementing regulations.

## CONFLICT OF INTEREST

The Conflict-of-Interest Questionnaire-Form CIQ must be submitted on the form provided by the county in this solicitation, excisions or special conditions shall not be made or included. CIQ Forms may also be obtained on the Purchasing Department website at: [http://epcounty.com/purchasing/documents/CIQ\\_Form.pdf](http://epcounty.com/purchasing/documents/CIQ_Form.pdf).

Chapter 176 of the Texas Local Government Code requires that any vendor or person considering doing business with a local government entity make certain disclosures. In 2015, the Texas Legislature updated the law and the Texas Ethics Commission made corresponding changes to the Conflict-of-Interest Questionnaire (Form CIQ), in which the vendor must disclose any covered affiliation or business relationship with County personnel that might cause a conflict of interest with a local government entity. A list of County elected officials and employees that will award the solicitation and/or make recommendations for award are included herein. By law, a completed questionnaire must be filed with the County of El Paso County, Texas. If no conflict of interest exists, write "N/A" or "None" in Box 3 of the CIQ Form.

## DISCLOSURE OF INTERESTED PARTIES

The Certificate of Interested Parties – Form 1295 should only be submitted online. Only required of awarded vendor(s). Form shall be submitted on the Texas Ethics Commission website, [https://www.ethics.state.tx.us/whatsnew/elf\\_info\\_form1295.htm](https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm). Instructional videos are provided on site for assistance.

In 2015, the Texas Legislature added Section 2252.908 to Chapter 2252 of the Texas Government Code. Pursuant to Section 2252.908, for contracts entered into January 1, 2016 and after, the awarded vendor must submit to the County a completed “Certificate of Interested Parties” form, which will be included in the Commissioners Court agenda at the time the contract is approved and sent to the Texas Ethics Commission within 30 days thereafter.

## NON-COLLUSION AFFIDAVIT

The Non-Collusion Affidavit of Contractor must be submitted on the form (s) provided by the county in this solicitation, excisions or special conditions shall not be made or included.

By submitting a response packet, the vendor declares that:

- The submission is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation;
- The submission is genuine and not collusive or sham;
- The contractor has not directly or indirectly induced or solicited another contractor to put in a false or sham submission, and has not directly or indirectly colluded, conspired, connived, or agreed with any contractor or anyone else to put in a sham bid or that anyone shall refrain from submitting;
- The contractor has not in any manner, directly or indirectly, sought by agreement, communications, or conference with anyone to fix the bid price of the contractor of any other vendor, or to fix any overhead, profit or cost element of the bid price, or of that of any other contractor, or to secure any advantage against the public body awarding the contract to anyone interested in the proposed contract;
- That all statements contained in the response packet are true; and
- The contractor has not (directly or indirectly) submitted his or her proposed price or any breakdown thereof, divulged information or data relative thereto, or paid (and will not pay) any fee to any cooperation, partnership, company association, organization, depository, or to any member or agent thereof in order to effectuate a collusive or sham solicitation response.

The vendor may not initiate any negotiations, decisions, or cautions based on any oral discussion with any County employee prior to the opening of responses to this solicitation. County officers, employees, public officials, or elected officials that exercise any role in the review or approval of this award may not have any personal or financial interests in any contract or negotiation related to this solicitation.

Before executing any subcontract, the submitting firm must submit the name of any proposed subcontractor for prior approval in a notarized affidavit. The Affidavit for a subcontractor is provided by the county in this solicitation, excisions or special conditions made or included will not be considered.

## INDEPENDENT CONTRACTOR

Submitting vendor expressly acknowledges that it is an independent contractor. Nothing in this agreement is intended nor shall be construed to create an agency relationship, an employer/employee relationship, a joint venture relationship, or any other relationship allowing County to exercise control or direction over the manner or method by which the vendor or its subcontractors perform in providing the requirements stated in this solicitation.

## MERGERS, ACQUISITIONS

The vendor shall be required to notify the County of any potential for merger or acquisition of which there is knowledge at the time that a bid is submitted.

If subsequent to the award of any contact resulting from this Sealed Bid the vendor shall merge or be acquired by another firm, the following documents must be submitted to the County:

- Corporate resolutions prepared by the awarded vendor and the new entity ratifying acceptance of the original contract, terms, conditions and prices;
- New vendor's Federal Identification Number (FEIN); and
- New vendor's proposed operating plans.

Moreover, the vendor is required to provide the County with notice of any anticipated merger or acquisition as soon as there is actual knowledge of the anticipated merger or acquisition. The new vendor's proposed plan of operation must be submitted prior to merger to allow time for submission of such plan to the Commissioners' Court for its approval.

## EQUAL EMPLOYMENT OPPORTUNITY

The County of El Paso is an equal opportunity employer. The vendor and its subcontractors will not discriminate against any employee or applicant for employment because of race, religion, color, sex, or national origin.

## CONSIDERATION OF SAFETY RECORD

Pursuant to Texas Local Government Code section 262.0275, in determining who is a responsible bidder, the commissioners court may take into account the safety record of the bidder, of the firm, corporation, partnership, or institution represented by the bidder, or of anyone acting for such a firm, corporation, partnership, or institution if the commissioners court has adopted a written definition and criteria for accurately determining the safety record of a bidder; the governing body has given notice to prospective bidders in the bid specifications that the safety record of a bidder may be considered in determining the responsibility of the bidder; and the determinations are not arbitrary and capricious.

The Safety Record Questionnaire must be submitted on the forms provided by the county in this solicitation, excisions or special conditions shall not be made or included.

## MONITORING PERFORMANCE

The County shall have the unfettered right to monitor and audit the Bidder/Contractor's work in every respect. In this regard, the Bidder/Contractor shall provide its full cooperation and ensure the cooperation of its employees, agents, assigns, and subcontractors. Further, the Bidder/Contractor shall make available for inspection and/or copying when requested, original data, records, and accounts relating to the work and performance under this contract. In the event any such material is not held in its original form; a true copy shall be provided.

## NO COMMITMENT BY COUNTY

This solicitation does not commit the County to award any costs or pay any costs, or to award any contract, or to pay any costs associated with or incurred in the preparation of a bid response to this solicitation, or to procure or contract for services or supplies.

## REJECTIONS / DISQUALIFICATIONS

County of El Paso reserves the right to reject any or all bids in whole or in part and may discontinue its efforts for any reason under this solicitation at any time prior to actual execution of the contract by the County. County of El Paso reserves the right to waive any informality, award by item or by total, and disregard the bid of any vendor determined to be not responsible. Vendors may be disqualified and rejection of bid may be recommended to the Commissioners Court for any of (but not limited to) the following causes:

- Bid received after date and time indicated for receipt.
- Failure to use the accompanying form(s) furnished by the County, if applicable.
- Lack of signature by an authorized representative that can legally bind the company.
- Failure to properly complete the bid packet.
- Bid does not meet/agree to the mandatory requirements.
- Indication of collusion.
- Bid contains irregularities.

The County may consider as irregular an alteration of or departure from the Forms hereto attached and at its option may reject the same. The County reserves the right to consider as unqualified any vendor who does not habitually perform with their own forces the major portions of the work outlined in this solicitation. The County further reserves the right to reject any bid due to failure of performance on deliveries as determined in writing by the County Purchasing Agent.

## Non-Collusion Affidavit of Contractor

State of Texas

County of El Paso

\_\_\_\_\_, being first duly sworn, deposes and says that:

- (1) He/she is \_\_\_\_\_ of \_\_\_\_\_ hereinafter referred to as the "Contractor";
- (2) He is fully informed respecting the preparation and contents submitted \_\_\_\_\_, the Contractor for certain work in connection with the County of El Paso Contract pertaining to the Project in El Paso County, Texas;
- (3) This bid is genuine and is not a collusive or sham bid.
- (4) Neither the Subcontractor nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affidavit, has in any way colluded, conspired, connived, or agreed, directly or indirectly, with any other Bidder, firm or person to submit a collusive or sham bid in connection with such Contract or to refrain from submitting a bid in connection with such Contract, or has in any manner, with any other Bidder, firm or person to fix the price or prices in said Contractor's Bid, or to secure through collusion, conspiracy, connivance or unlawful agreement any advantage against the County of El Paso or any person interested in the proposed Contract: and
- (5) The prices quoted in the Contractor's bid are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Bidder or any of its agents, representatives, owners, employees or parties in interest, including this affidavit.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Title)

Subscribed and sworn to before me this \_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

By: \_\_\_\_\_  
(Notary Public)

My Commission Expires \_\_\_\_\_, 20 \_\_\_\_\_

## Non-Collusion Affidavit of Subcontractor

State of Texas                    (

)

County of El Paso

\_\_\_\_\_, being first duly sworn, deposes and says that:

- (1) He/she is \_\_\_\_\_ of \_\_\_\_\_ hereinafter referred to as the "Subcontractor";
- (2) He is fully informed respecting the preparation and contents of the Subcontractor's Proposal submitted by the Subcontractor to \_\_\_\_\_, the Contractor for certain work in connection with the County of El Paso Contract pertaining to the Project in El Paso County, Texas;
- (3) Such Subcontractor's Proposal is genuine and is not a collusive or sham proposal.
- (4) Neither the Subcontractor nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affidavit, has in any way colluded, conspired, connived, or agreed, directly or indirectly, with any other Bidder, firm or person to submit a collusive or sham Proposal in connection with such Contract or to refrain from submitting a Proposal in connection with such Contract, or has in any manner, with any other Bidder, firm or person to fix the price or prices in said Subcontractor's Proposal, or to secure through collusion, conspiracy, connivance or unlawful agreement any advantage against the County of El Paso or any person interested in the proposed Contract: and
- (5) The prices quoted in the Subcontractor's Proposal are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Bidder or any of its agents, representatives, owners, employees or parties in interest, including this affidavit.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Title)

Subscribed and sworn to before me this \_\_\_ day of \_\_\_\_\_, 20\_\_\_.

By: \_\_\_\_\_  
(Notary Public)

My Commission Expires \_\_\_\_\_, 20\_\_\_

## Bid Bond

KNOW ALL MEN BY THESE PRESENTS, that we the undersigned, as PRINCIPAL, AND \_\_\_\_\_, as SURETY are held and firmly bound unto hereinafter called the "El Paso County", in the penal sum of \_\_\_\_\_ Dollars, (\$\_\_\_\_\_), lawful money of the United States, for the payment for which sum well and truly to be made we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that whereas the Principal has submitted the accompanying Bid, dated \_\_\_\_\_, 20\_\_\_\_, for As-Needed Paving Emulsion for the County of El Paso (FY2023)\_

NOW, THEREFORE, if the Principal shall not withdraw said Bid within the period specified therein after the opening of the same, or, if no period be specified, within thirty (30) days after the said opening, and shall within the period specified therefore, or if no period by specified, within ten (10) days after the prescribed forms are presented to him for signature, enter into a written Contract with The County in accordance with the Bid as accepted, and give bond with good and sufficient surety or sureties, as may be required, for the faithful performance and proper fulfillment of such contract or in the event of the withdrawal of said Bid within the period specified, or the failure to enter into such Contract and give such bond within the time specified, if the Principal shall pay The County the difference between the amount specified in said Bid and the amount for which The County may procure the required work or supplies or both, if the latter be in excess of the former, then the above obligation shall be void and of no effect, otherwise to remain in full force and virtue.

IN WITNESS WHEREOF, the above-bounded parties have executed this instrument under their several seals this \_\_\_\_\_day of, 20\_\_\_\_, the name and corporate seal of each corporate party being hereto affixed and these present signed by its undersigned representative, pursuant to authority of its governing body.

(Forms of Bid Bonds prepared to meet the requirements of Local or State Laws or the needs of the County should be substituted for this form where necessary.)

Attest: \_\_\_\_\_ By: \_\_\_\_\_

Attest: \_\_\_\_\_ By: \_\_\_\_\_

Countersigned By: \_\_\_\_\_

Attorney-in-Fact, State of \_\_\_\_\_

Power-of-Attorney for person signing for the surety company must be attached to bond.



## Certificate as to Corporate Principal

Required if Bidder is a Corporate

I, \_\_\_\_\_, certify that I am the, \_\_\_\_\_, Secretary of the Corporation named as Principal in the within bond; that, who signed the said bond on behalf of the Principal was then \_\_\_\_\_ of said corporation; that I know his signature, and his signature thereto is genuine; and that said bond was duly signed, sealed, and attested to for and in behalf of said corporation by authority of this governing body.

\_\_\_\_\_(Corporate Seal)

\_\_\_\_\_ Title

## Check Return Authorization Form

Bidder must complete this form and attach to cashier's check. All checks must be for the required amount and be payable to the County of El Paso, **not payable to any individual.**

The Purchasing Department may retain the bid checks of the three lowest bidders until after the award and approval of the contract. The Purchasing Department will return checks of all other bidders within seven (7) days following the opening of bids.

Authorization is hereby granted to return the cashier's check via regular mail to the address listed below without liability of any kind or nature if:

- I. we are an unsuccessful bidder, or
- II. upon completion of contract.

Bid No.: \_\_\_\_\_ Project Name: \_\_\_\_\_

Cashier's Check No.: \_\_\_\_\_ Dated: \_\_\_\_\_

Bank: \_\_\_\_\_ Drawn on: \_\_\_\_\_

Amount: \$ \_\_\_\_\_

Business Address: \_\_\_\_\_

Telephone No.: \_\_\_\_\_ Email: \_\_\_\_\_

Name: \_\_\_\_\_ Signature: \_\_\_\_\_

**Mailing Address:** \_\_\_\_\_

**City:** \_\_\_\_\_ **ST:** \_\_\_\_\_ **Zip Code:** \_\_\_\_\_

Optional Pick-Up at Purchasing Department Office

**Name of Authorized Receiver:** \_\_\_\_\_

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### For Use of Purchasing Dept. Only

Date Check Returned: \_\_\_\_\_ Bid Clerk: \_\_\_\_\_

Pick-Up Signature: \_\_\_\_\_ Print Name: \_\_\_\_\_

## Safety Record Questionnaire

The following definitions and criteria shall be used to take into account the safety records of bidders:

**Bidder** – Includes any person who is an officer of, is in a management position with, or has an ownership interest in the firm, corporation, partnership, or institution, represented by the bidder or anyone acting for such firm, corporation, partnership or other entity which is submitting the response or proposal.

**Worker Safety** – refers to the working environment at the bidders' company, offices, jobsites, and any other place in which it does business. The term encompasses all factors that impact the safety, health, and well-being of employees. Work safety may include the prevention, enforcement, and/or remediation of environmental hazards, unsafe working conditions or processes, drug and alcohol abuse, and workplace violence. Workplace safety is monitored by state and national authorities such as the Occupational Safety and Health Administration.

**Public Safety** - involves protecting the public — safeguarding people from crimes, disaster, and other potential dangers and threats (including, without limitation, environmental hazards and safety threats).

**Environmental Safety** - Refers to pollution prevention as well as the prevention of other threats to the environment and protecting anyone that may be affected by pollution. It also includes the safe storage, use, disposal of various chemicals (including, without limitation, toxic chemicals) that may be used in workplaces, job sites, or other work areas.

**Violation** - Refers to any activity, occurrence, or condition that disregards established laws and regulations, results in non-compliance with, or results in a written complaint or other written claim from, a Governmental Authority with respect to applicable or governing law.

- 1) Within the past five (5) years of this Bid submittal, can the bidder identify any civil litigation, which resulted in final judgment against the Bidder, arising out of the performance of a construction contract within the State of Texas in which the Bidder was a named defendant in a lawsuit brought by or against the Owner. Do not include litigation which is limited solely to enforcement of mechanics' liens or stop notices.  
 Yes    No
  
- 2) Within the past five (5) years of this Bid submittal, has the bidder received any final determinations by a court or governmental agency for violations of Federal, State, or local laws including, but not limited to, violations of environmental safety laws, public health and safety laws, the Occupational Safety and Health Act (“OSHA”) or similar laws or regulations.  
 Yes    No
  
- 3) Within the past five (5) years of this Bid submittal, can the bidder identify with any criminal convictions concerning any environmental safety, worker safety, or public safety laws.  
 Yes    No

If the bidder has indicated "Yes" to any question above, the bidder must provide with its bid submission the form titled **Self-Disclosure of Environmental Safety Violations**.

If the bidder has indicated “No” to ALL questions above, the bidder must provide with its bid submission the form titled **Civil Litigation Certification**.

Name: \_\_\_\_\_

Date: \_\_\_\_\_

## Civil Litigation Certification

If the Bidder has no civil litigation history to report as described above, complete the following:

I, \_\_\_\_\_, certify that neither  
(print name of owner, officer, manager, or licensee responsible for submission of Bid/Proposal)

\_\_\_\_\_  
(Bidder name as shown on Bid/Proposal)

nor \_\_\_\_\_  
(name of responsible managing person licensed by the Contractors' State License Board)

has been the subject of a final judgment in civil litigation as described above.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this \_\_\_\_\_ day \_\_\_\_\_ of \_\_\_\_\_ at \_\_\_\_\_  
(month and year) (city and state)

by \_\_\_\_\_  
(signature of owner, officer, manager, or licensee responsible for submission of Bid/Proposal)

## Self-Disclosure of Environmental Safety Violations

### Contact Information for Individual Submitting the Self-Disclosure

Title: \_\_\_\_\_

First Name: \_\_\_\_\_

Middle Name (or initial): \_\_\_\_\_

Last Name: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: (\_\_\_\_\_) \_\_\_\_\_

Is the individual submitting this self-disclosure authorized by the company to make such a disclosure and is this person an authorized signatory (having authority to perform policy or decision-making functions of the company)? \_\_\_\_\_Yes \_\_\_\_\_No

### Facility/Site Information

Facilities/sites involved with this environmental violation(s):

Note: If more than one facility/site is involved with the environmental violation(s), please indicate the number of facilities/sites below and attach a separate sheet for each violation to your final submission with the physical address for each facility/site, and identify which facilities/sites have which violation(s).

Facility/Site Physical Address: \_\_\_\_\_

Owner: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

### Describe Environmental Safety Violation

NOTE: Each safety violation should be described as completely as possible and include the following information:

- Nature and description of violation(s) and specific regulatory, permit and/or statutory provision violated (include state references where appropriate).
- Identify the name, title, and employer of each person who discovered the safety violation, and what they were doing when the violation was discovered.
- How the safety violation was discovered; i.e., describe the moment at which the person first realized (objectively reasonable basis) that the violation(s) may have occurred or did occur.
- Physical location of violation.
- Please state if the safety violation was voluntarily discovered. Voluntary discovery did not occur if the violation was found through a legally required monitoring, sampling, or auditing procedure that is required by statute, regulation, permit, judicial or administrative order, or consent agreement.
- Please provide the date of discovery of each safety violation disclosed.

- How the safety violation was corrected and how any harm was remediated.
- Describe any environmental or human harm caused by the violation, and any measures undertaken to remediate such harm.
- Describe what steps were taken to prevent recurrence of the violation and provide the date that those measures were implemented. If the measures have not yet been implemented, provide the implementation schedule setting forth the dates of the anticipated actions.
- The name and court case identification number of each case.
- The jurisdiction in which it was filed.
- The outcome of the litigation, e.g., the cause number and date of any final judgment that was entered.

**I declare under penalty of perjury that the foregoing is true and correct, nor have I withheld any relevant information in my statements.**

Executed this \_\_\_\_\_ day \_\_\_\_\_ of \_\_\_\_\_ at \_\_\_\_\_  
(month and year) (city and state)

by \_\_\_\_\_  
(signature of owner, officer, manager, or licensee responsible for submission of Bid/Proposal)

## County of El Paso Code of Ethics Training Affidavit

(This form must be signed by an officer, principal, or individual authorized to bind the company under a contract with the County.)

IN COMPLIANCE WITH CHAPTER 161 OF THE TEXAS LOCAL GOVERNMENT CODE, ANY VENDOR INVOLVED IN A SINGLE PROCUREMENT EXCEEDING \$50,000 MUST COMPLETE THE ENCLOSED ETHICS TRAINING BEFORE SUBMITTING A BID OR PROPOSAL WITH THE COUNTY OF EL PASO.

### **Purpose:**

The stability of democracy depends upon the continuing consent of the governed, which in turn depends upon the trust the electorate holds for its government. The Ethics Commission of the County of El Paso, Texas, in concert with elected county officials, as well as leaders of the various county departments, recognizes the need to maintain the public trust and confidence in the workings of county government and thus adopts this Code of Ethics.

### **What is a vendor:**

Any person or their representative or employee whose goods and services are purchased under the terms of a purchase order or contractual agreement with the county; and any other persons doing business with the County.

### **Procurement:**

In advising upon, discussing, recommending, and/or granting any County purchases, bids or contracts, County public servants shall inform themselves about their financial interests, and shall make a reasonable effort to inform themselves about the financial interest of their family members.

County public servants shall excuse themselves from exercising influence, participating in, discussing, recommending, and/or granting of any County purchases, bids, or contracts if they or a family member have a substantial financial interest.

### **Private Communication:**

No member of the El Paso County Commissioners Court, County Elected Officials/Department Heads or the El Paso County Hospital District Board of Managers shall permit any vendor, its lobbyists, representative, or employee to communicate with him privately regarding any procurement of items by the County or the Hospital District from the date that the bid, RFP, or RFQ is authorized or released, whichever is first. No private communication regarding the purchase shall be permitted by a member of the Commissioners Court, a county elected official/department head, or the hospital district board of managers until the procurement process is complete and a purchase order is granted or a contract is entered into.

Members of the Commissioners Court, county elected officials/department heads and the board of managers shall make a reasonable effort to inform themselves regarding procurements and shall have a duty to inquire of vendors, their lobbyists, representatives, or employees, the nature of the private communication being sought prior to engaging in any communication.

This prohibition against private communication with vendors, their lobbyists, representatives, or employees shall apply to commissioner's court approval of hospital district purchases.

I \_\_\_\_\_ am an officer, principal, or individual authorized to  
(Full Name)

bind the company, known as \_\_\_\_\_  
(Company name)

By reading and signing this document, I confirm that I have been trained in the County of El Paso's Code of Ethics regarding Vendors. I understand that any contact by myself or any representative of the company with a County of El Paso official or county employee, other than those shown on the RFP or bid documents shall cause the bid or proposal to be immediately disqualified from consideration of award.

Name \_\_\_\_\_

Title \_\_\_\_\_

Company Name \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_



## Certifications

### CERTIFICATIONS REGARDING LOBBYING, DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; DRUG-FREE WORKPLACE REQUIREMENTS; FEDERAL DEBT STATUS, AND NONDISCRIMINATION STATUS AND IMPLEMENTING REGULATIONS\*

Instructions for the certifications:

#### **General Requirements**

The County of El Paso, Texas is required to obtain from all applicants of federal funds or pass-through certifications regarding federal debt status, debarment and suspension, and a drug free workplace. Institutional applicants are required to certify that they will comply with the nondiscrimination statutes and implementing regulations.

Applicants should refer to the regulations cited below to determine the certifications to which they are required to attest. Signature of the form provides for compliance with certification requirements under 21 CFR part 1405, "New Restrictions on Lobbying," 21 CFR part 1414, Government wide Debarment and Suspension (Non procurement), Certification Regarding Federal Debt Status (OMB Circular A-129), and Certification Regarding the Nondiscrimination Statutes and Implementing Regulations. The certifications shall be treated as a material representation of fact upon which reliance will be placed when the County of El Paso determines to award the covered cooperative agreement

#### **1) LOBBYING**

As required by Section 1352, Title 31 of the U.S. Code, and implemented in 21 CFR part 1405, for persons entering into a cooperative agreement over \$100,000, as defined at 21 CFR Part 1405, the applicant certifies that;

- a) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement,
- b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal Grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure of Lobbying Activities," in accordance with its instructions;
- c) The undersigned shall require that the language of this certification be included in the award document for all sub-awards at all tiers (including sub-grants, contracts under grants and cooperative agreements, and subcontracts) and that all sub-recipients shall certify and disclose accordingly.

## **2) DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS**

As required by Executive Order 12549, Debarment and Suspension and implemented at 21 CFR Part 1404, for prospective participants in primary covered transactions, the applicant certifies that it and its principals:

- a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, sentenced to a denial of Federal benefits by a State or Federal court, or voluntarily excluded from covered transactions by any Federal department or agency;
- b) Have not within a three-year period preceding this application been convicted of or and a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (Federal, State, or local) transaction or contract under a public transaction violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) terminated for cause or default; and

Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to the application.

## **3) DRUG-FREE WORKPLACE**

As required by the Drug Free Workplace Act of 1988, and implemented at 21 CFR Part 1404 Subpart F, the applicant certifies that it will or will continue to provide a drug free workplace by:

- a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the applicant's workplace and specifying the actions that will be taken against employees for violations of such prohibition;
- b) Establishing an on-going drug free awareness program to inform employees about:
  - i) The dangers of drug abuse in the workplace;
  - ii) The applicant's policy of maintaining a drug free workplace;
  - iii) Any available drug counseling, rehabilitation, and employee assistance programs; and
  - iv) The penalties that may be imposed upon employees for drug abuse violation occurring in the workplace;
- c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a)
- d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee must
  - i) Abide by the terms of the statement; and
  - ii) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction.

- e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such convictions. Employers of convicted employees must provide notice including position title, to: The County of El Paso, Texas, 500 East San Antonio Street, Suite 406, El Paso, Texas 79901. Notice shall include the identification number of each affected grant
- f) Taking one of the following actions within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:
  - i) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
  - ii) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal State, or local health, law enforcement, or other appropriate agency
- g) Making a good faith effort to continue to maintain a drug free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

**4) CERTIFICATION REGARDING FEDERAL DEBT STATUS (OMB Circular A-129)**

The Applicant certifies to the best of its knowledge and belief, that it is not delinquent in the repayment of any federal debt.

**5) CERTIFICATION REGARDING THE NONDISCRIMINATION STATUTES AND IMPLEMENTING REGULATIONS**

The applicant certifies that it will comply with the following nondiscrimination statutes and their implementing regulations: (a) title VI of the Civil right Act of 1964 (42 U.S.C. 2000D et seq.) which provides that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of or be otherwise subjected to discrimination under any program or activity for which the applicant received federal financial assistance; (b) Section 504 of the rehabilitation Act of 1973, as amended (29 U.S.C. 794), which prohibits discrimination on the basis of handicap in programs and activities receiving federal financial assistance; (c) title IX of the Education Amendments of 1972m as amended (20 U.S.C. 1981 et seq.) which prohibits discrimination on the basis of sex in education programs and activities receiving federal financial assistance; and (d) the Age Discrimination Act of 1975, and amended (42 U.S.C. 6101 ec seq.) which prohibits discrimination on the basis of age in programs and activities receiving federal financial assistance, except that actions which reasonably take age into account as a factor necessary for the normal operation or achievement of any statutory objective of the project or activity shall not violate this statute.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

\_\_\_\_\_  
Business Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name of Authorized Representative

\_\_\_\_\_  
Signature of Authorized Representative

\*All four (4) pages of this document must be included in all responses.

## Conflicts of Interest

**Re: Bid 23-008, As-Needed Paving Emulsion for the County of El Paso (FY2023)**

**Dear Vendor:**

The Texas Local Government Code Chapter 176 requires all vendors and potential vendors who contract or seek to contract for the sale or purchase of property, goods, or services with any local government entity to complete and submit a Conflicts of Interest Questionnaire. Attached is a copy of the questionnaire.

In filing out the Questionnaire, the following are the County Officers that will award the bid and the employees which will make a recommendation to the Commissioners' Court:

County Officers: County Judge Ricardo A. Samaniego  
Commissioner Carlos Leon  
Commissioner David Stout  
Commissioner Iliana Holguin  
Commissioner Sergio Coronado

County Employees: Karen Davidson, Purchasing Agent  
Elvia Jauregui, Assistant Purchasing Agent  
Araceli Hernandez, Formal Bid Buyer  
Claudia Parra, Procurement Data Analyst  
Betsy Keller, County Administrator  
Edward Dion, County Auditor  
Barbara Franco, Auditor First Assistant  
Wallace Hardgrove, Budget & Financial Manager  
Christina Ford, Division Chief  
Eddie Sosa, First Assistant County Attorney  
Erich Morales, Assistant County Attorney  
Vivian Arroyo, Assistant County Attorney  
Steven Arellano, Assistant County Attorney  
Alex Cuellar, Assistant County Attorney  
Lorena Rodriguez, Analyst  
Fernando Hernandez, Infrastructure Services Director, Public Works  
Norma Rivera Palacios, Executive Director, Public Works

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

**FORM CIQ**

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.

## Health Insurance Benefits Questionnaire

Texas Local Government Code Section 262.0271 states the County may give preference to bidders that provide reasonable health insurance coverage to its employees, over a bidder that doesn't provide such insurance. Complete the questionnaire below if applicable. If not, check box #3.

1. Do you or your subcontractor(s) currently offer health insurance benefits to your employees?

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If so, please describe those health insurance benefits that you or your subcontractor(s) currently provide/offer to your employees.

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2. What percentage, if any, of your of your subcontractor's employees are currently enrolled in the health insurance benefits program?

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3.  **No. The bidder is not requesting the Health Insurance Benefits Preference.**

**Checking Box #3 will not disqualify you from participating in this bid selection process.**

---

Business Name

---

Date

---

Name of Authorized Representative

---

Signature of Authorized Representative



## **Local Business Preference Policy**

### **County of El Paso Guidelines and Criteria for Consideration of Location of Bidder's Principal Place of Business (OP-12-606)**

#### **I. Authorization**

Section 271.905 of the Texas Local Government Code authorizes the County of El Paso to give consideration to the location of a bidder's principal place of business in awarding the bid ("Local Business Preference"). In order to do so, the County Commissioners Court must determine, in writing, that the local bidder offers the County the best combination of contract price and additional economic development opportunities for the County created by the contract award, including the employment of residents of the County and increased tax revenues to the County.

#### **II. General Purpose and Intent**

- (A) The purpose and intent of these guidelines and criteria is to set forth the parameters under which the County of El Paso may consider the location of a bidder's principal place of business in awarding the bid.
- (B) All applications for consideration will be considered on a case-by-case basis, and the decision to approve or deny consideration shall be at the discretion of the El Paso County Commissioners Court.
- (C) The County of El Paso reserves the right to reject all bids; award a contract to the lowest bidder; or to award the bidder whose principal place of business is in the local government if the governing body of the local government determines, in writing, that the local bidder offers the local government the best combination of contract price and additional economic development opportunities for the local government created by the contract award, including the employment of residents of the local government and increased tax revenues to the local government.

#### **III. Factors that the County may consider in awarding a contract under the Local Preference Policy**

- (A) The bids must be for any real property or personal property that is not affixed to real property.
- (B) The location of the bidder's principal place of business must be in the County, as evidenced by submission of the current and valid Franchise Tax Certificate and the Certificate of Account Status on file with the Texas Secretary of State, or other documents if applicable under the Texas Business Organizations Code.
- (C) The bidder's bid price must be within 3% of the lowest and best qualified bid.
- (D) The bidder must include in the bid a written application for the Local Business Preference providing objective information satisfactory to the Commissioners Court as to how the award of the bid will lead to additional economic development opportunities for the County created by the contract award, including (1) The employment of County residents, and (2) Increased tax revenues to the local government. Such information shall be as appropriate to the type of bid, but may include, but is not limited to:

- i. Bid amount as percentage of reported local annual sales/revenue;
- ii. Economic impact-number of employees added within past 12 months;
- iii. New job by salary category;
- iv. Local annual property taxes paid.

(E) The bidder must not be tax delinquent as to federal, state, or local taxes.

(F) The bidder may not subcontract the award, or any part of the award.

(G) The bidder must not be indebted to the County. "Debt" includes delinquent taxes, fines, fees, and delinquencies arising from written agreements with the County. (This provision will take effect immediately upon the action by Commissioners Court required under Texas Local Government Code section 262.0276).

(H) In determining who is a responsible bidder, the Commissioners Court may take into consideration the safety record of the bidder, of the firm, corporation, partnership or institution represented by the bidder. (This provision will take effect immediately upon the action by Commissioners Court required under Texas Local Government Code section 262.0275).

(I) All bidders, including owners, principals or officers if the bidder is a corporation or other legal entity, seeking Local Business Preference will be required to submit an affidavit of any and all political contributions to members of Commissioners Court for the previous 12 months.

(J) A business in which a member of Commissioners Court has a substantial business interest as defined under Texas Local Government Code Chapter 171 is not eligible for consideration under the Local Business Preference Policy.

#### IV. Application

(A) **Case by Case Basis:** If the Purchasing Agent and Procurement Review Panel determines that a proposed bid is appropriate for Local Business Preference, it will include in the bid the information required from the bidder. Only bids for real property or personal property that is not affixed to real property are eligible for the Local Business Preference.

(B) **Written Application:** A bidder may request consideration for Local Business Preference by submitting the required information as part of the bid. There is no charge to submit the application.

(C) **Contents of Application:** The application shall consist of a completed application form. The application must include objective, verifiable information from the bidder as to how the local bidder offers the County the best combination of contract price and additional economic development opportunities for the County created by the contract award, including the employment of County residents and increased tax revenues to the County. The application form may require such financial and other information, as the County deems appropriate for evaluating the financial capacity and other relevant factors of the applicant.

#### V. Administration

(A) **Annual Assessment:** Each September, the Purchasing Agent shall separately account for all bids awarded pursuant to the Local Preference Policy and the County Auditor shall annually determine the total value of contracts awarded pursuant to the Local Preference Policy.

(B) **Annual Reports:** Each September, a company receiving a contract award pursuant to the Local Business Preference shall report to the County its annual revenues, annualized employment levels distributed by wage brackets, the addition or deletion of capital assets in excess of \$1,000,000.00, and any other pertinent information that would affect the ability of the local operation to maintain its status as a going concern.

(C) **“Buy Local” Provision:** Each recipient of Local Business Preference shall additionally agree to give preference and priority to local manufacturers, suppliers, contractors and labor, except where not reasonably possible to do so without added expense, substantial inconvenience, or sacrifice in operating efficiency. The Annual Report by the company shall include a summary of the action taken by the company pursuant to the “Buy Local” Provision.

## VI. Confidentiality

Information that is provided to the County in connection with an application or request for Local Business Preference under these Guidelines and Criteria shall be kept confidential and not be subjected to public disclosure except as required by law, the Texas Attorney General, or by an order of a court. Written information shall be released pursuant to a request under the Public Information Act, Chapter 552 of the Texas Government Code, as amended, by the officer for public information or his or her designee in accordance with the standards established under that act for confidentiality and closed records.

Adopted this 17<sup>th</sup> day of December, 2012 by the El Paso County Commissioners Court.

ATTEST

COUNTY OF EL PASO

\_\_\_\_\_  
County Clerk, Delia Briones

\_\_\_\_\_  
County Judge, Veronica Escobar

**APPLICATION**

**Local Business Preference for**

**BID NO. 23-008**

**As-Needed Paving Emulsion for the County of El Paso (FY2023)**

For additional information, see the Local Business Preference Policy Guidelines and Criteria provided above.

**A. Qualification as a Local Business**

1. Where is your principal place of business? \_\_\_\_\_
2. Are you tax delinquent as to federal, state, or local taxes? \_\_\_\_\_
3. Are you registered to do business with the Texas Secretary of State? \_\_\_\_\_
  - Attach a copy of your current Franchise Tax Certificate on file with the Texas Secretary of State.
  - Attach a copy of your current Certificate of Account Status on file with the Texas Secretary of State.

If the above documents do not apply, explain why and provide the equivalent documents required by the Texas Secretary of State and/or Texas Business Organizations Code for your type of business entity.

\_\_\_\_\_  
\_\_\_\_\_

**B. Economic Development Opportunities**

How will the bid award lead to additional economic development opportunities for the County?

This information includes, but is not limited to, (1) The employment of County residents, and (2) Increased tax revenues to the local government. Such information shall be as appropriate to the type of bid, and may include, but is not limited to:

- i. bid amount as percentage of reported local annual sales/revenue, or total commodity sales;
- ii. economic impact- number of employees added within past 12 months
- iii. new jobs by salary category
- iv. local annual property taxes paid

*(You may attach your answer on a separate page, if you prefer).*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**C. No Subcontracting of Award**

The bidder may not subcontract the award, or any part of the award. Doing so will be grounds for termination of the contract and penalties. **Agreed:** \_\_\_ **Yes** \_\_\_ **No**

**D. Affidavit of Contributions to members of Commissioners Court.**

Any and all political contributions by the bidder to members of Commissioners Court for the previous 12 months by the bidder, must be disclosed. This includes owners, principals or officers if the bidder is a corporation or other legal entity, must be disclosed. **Complete and sign the attached affidavit.**

**E. Annual Report.**

If you are awarded the bid, you must provide the County, every September, a report of your revenues for the most recent year end, annual employment levels by wage brackets, the addition or deletion of capital assets in excess of \$1,000,000.00, and any other pertinent information that would affect the ability of your business to maintain its status as a going concern.

**F. Agreement to “Buy Local.”**

If you are awarded the bid, you agree to give preference and priority to County manufacturers, suppliers, contractors and labor, except where not reasonably possible to do so without added expense, substantial inconvenience, or sacrifice in operating efficiency. Your Annual Report (see Section E) must include a summary of the action taken by the company pursuant to the “Buy Local” Provision.

**G. Confidentiality.**

Information that is provided to the County in connection with an application or request for Local Business Preference shall be kept confidential and not be subjected to public disclosure except as required by law, the Texas Attorney General, or by an order of a court. Written information shall be released pursuant to a request under the Public Information Act, Chapter 552 of the Texas Government Code, as amended, by the officer for public information or his or her designee in accordance with the standards established under that act for confidentiality and closed records.

Name Of Business \_\_\_\_\_

Name Of Authorized Representative \_\_\_\_\_

Title Of Authorized Representative \_\_\_\_\_

Signature Of Authorized Representative \_\_\_\_\_

Date \_\_\_\_\_

**Local Business Preference Affidavit**

*To be completed by all vendors as described in section D of the local business preference application- By owner, if vendor is a sole proprietorship or all principals and officers if the vendor is a corporation or other legal entity*

AFFIDAVIT

THE STATE OF \_\_\_\_\_)

COUNTY OF \_\_\_\_\_)

BEFORE ME, the undersigned authority, on this day personally appeared \_\_\_\_\_, who, first upon oath being duly sworn, deposed and stated:

I am fully competent to make this affidavit, and the information contained herein is based upon my personal knowledge..

1. My name is (\_\_\_\_\_). My title and principal place of business is \_\_\_\_\_.

2. For the previous 12 months from the signature date on this document, I or my company have made the following campaign contributions, gifts or any transfers of cash, checks or anything of value to any member of the El Paso County Commissioners Court, any person related by marriage or birth to the County Commissioners or County Judge or any member of the El Paso County administrative staff: (Provide Date, Amount or Cash Value of Gift, and Recipient's Name and Title):

\_\_\_\_\_.

*[add any additional information you think necessary or appropriate]*

\_\_\_\_\_  
Affiant

The foregoing Affidavit was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ by \_\_\_\_\_ (Name), \_\_\_\_\_ (Title), both in his/her individual capacity and on behalf of \_\_\_\_\_ (Company).

\_\_\_\_\_  
Notary Public, State of \_\_\_\_\_

## Certificate of Interested Parties

Effective January 1, 2016, Texas Legislature adopted [House Bill 1295](#), which states that a governmental agency may not enter into certain contracts with a business entity, unless the business entity submits a disclosure of interested parties to the governmental entity. **This Certificate of Interested Parties - Form 1295 must be submitted before the county can enter into the contract.**

- The Form 1295 must be submitted online at [https://www.ethics.state.tx.us/whatsnew/elf\\_info\\_form1295.htm](https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm).
- Upon completion, you will be provided a verification printout.
- The printout must be notarized and then submitted to the County of El Paso for verification.

Upon the County's receipt of your notarized Form 1295, the contracting process can begin. Failure to complete and submit the Form 1295 will delay the contract from possibly being awarded and could result in loss of the contract.

**CERTIFICATE OF INTERESTED PARTIES**

**FORM 1295**

Complete Nos. 1 - 4 and 6 if there are interested parties. Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.	<b>OFFICE USE ONLY</b>
<b>1</b> Name of business entity filing form, and the city, state and country of the business entity's place of business.	Must file online at <a href="http://www.ethics.state.tx.us/File">www.ethics.state.tx.us/File</a>
<b>2</b> Name of governmental entity or state agency that is a party to the contract for which the form is being filed.	

**3** Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

4 Name of Interested Party	City, State, Country (place of business)	Nature of Interest (check applicable)	
		Controlling	Intermediary

**5** Check only if there is no Interested Party.

**6 UNSWORN DECLARATION**

My name is \_\_\_\_\_, and my date of birth is \_\_\_\_\_.

My address is \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_.

(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in \_\_\_\_\_ County, State of \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

(month) (year)

\_\_\_\_\_  
Signature of authorized agent of contracting business entity  
(Declarant)

**ADD ADDITIONAL PAGES AS NECESSARY**



## El Paso County Signature Page

**Bid 23-008**

### **As-Needed Paving Emulsion for the County of El Paso (FY2023)**

Please submit one (1) original hard copy and one (1) electronic copy in Word/PDF format of your bid. The electronic copies must reflect the original hard copy.

This signature acknowledges that the Bidder has read the bid solicitation thoroughly before submitting a response and will fulfill the obligations in accordance with the bid requirements and resulting contract if awarded.

Failure to provide signature on this form renders bid non-responsive.

**\*\*\*E-Bid / Virtual submittals: This signature page will not need to be uploaded to Ion Wave. All information will be pulled from Company Profile and acknowledged with virtual signature. \*\*\***

Hard copy responses received by the Purchasing Department prior to the indicated date and time, will be entered manually as an electronic entry after the bid opening. If the vendor is not registered with the e-bid system, the information provided below will be used to register the vendor as an offline supplier.

_____ Company (Legal Name)	_____ DBA if applicable
_____ Federal Tax Identification No.	_____ Organization Type (e.g. Sole Proprietor, LLC, S or C Corporation, Non Profit, Foreign Entity, etc.)
_____ DUNS Number (Applicable to Grant Funded Project)	_____ Main Telephone Number with area code
_____ Email Address	_____ Company Address
_____ Representative Name & Title	_____ City, State, Zip Code
_____ Signature	_____ Date

**\*\*\*THIS MUST BE THE FIRST PAGE ON ALL BIDS\*\*\***

## Bid Check List

### Bid 23-008 As-Needed Paving Emulsion for the County of El Paso (FY2023)

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#### THIS CHECKLIST IS PROVIDED FOR YOUR CONVENIENCE

(Incomplete bids will be rejected)

**\*\* E-Bid / Virtual submittals: Please upload all applicable documents onto Ion Wave \*\***

\_\_\_\_\_ Attend pre-bid conference, .

\_\_\_\_\_ Check for bid addenda.

\_\_\_\_\_ Complete and include Bid Response

Complete and include required bid forms:

\_\_\_\_\_ Non-Collusion Affidavit of Contractor

\_\_\_\_\_ Bid Bond or Cashier's Check

\_\_\_\_\_ Safety Questionnaire

\_\_\_\_\_ Civil Litigation Certificate or Self Disclosure of Environmental Safety Violations

\_\_\_\_\_ W9

\_\_\_\_\_ County of El Paso Code of Ethics Training Affidavit

\_\_\_\_\_ Certifications

\_\_\_\_\_ Conflict of Interest- Form CIQ

\_\_\_\_\_ El Paso County Signature Page

\_\_\_\_\_ Price Sheet

Additional (if applicable):

\_\_\_\_\_ Non-Collusion Affidavit of Subcontractor

\_\_\_\_\_ Check Return Authorization Form

\_\_\_\_\_ Certificate as to Corporate Principal

Optional:

\_\_\_\_\_ Health Insurance Benefits Questionnaire

\_\_\_\_\_ Local Business Preference Policy

\_\_\_\_\_ Make County of El Paso Signature Page the first page of Bid Packet

\_\_\_\_\_ Hardcopy submittals: Provide one (1) original hard copy of your complete bid and one (1) electronic version (CD/ DVD/ Flashdrive) in Word/PDF Format. Electronic copy must reflect the hard copy.

\_\_\_\_\_ Deliver response to the County Purchasing Department by 2:00 p.m., 2/9/2023.

**Upon award of contract the following forms will be required:** Certificate of Interested Parties - Form 1295, and Insurance Certificates