



SOLICITATION NO. B100180-LD

AVIATION FUEL (JET A)

DOCUMENTS ARE DUE PRIOR TO:

Apr 19, 2010 2:00:00 PM CDT

LATE BIDS WILL BE RETURNED UNOPENED

DOCUMENTS MAY BE SUBMITTED ELECTRONICALLY TO:

www.bidsync.com

DOCUMENTS MAY BE MAILED OR DELIVERED TO :

Travis County Purchasing Office
314 W. 11th St. Room 400
Austin TX 78701

Bids will be opened publicly and read in the Office of the Travis County Purchasing Agent. If mailed or delivered in person, write the bid number on the envelope in the lower left corner.

Time Critical Bid/Proposal Deliveries: Travis County does not guarantee that any bid/proposal sent Priority Mail will be picked up and delivered by the closing date and time. It is recommended that critical bid/proposal deliveries be made either electronically or in person.

Bid B100180-LD AVIATION FUEL (JET A)

Bid Number B100180-LD
Bid Title AVIATION FUEL (JET A)

Bid Start Date Mar 29, 2010 10:31:29 AM CDT
Bid End Date Apr 19, 2010 2:00:00 PM CDT
Question & Answer End Date Apr 14, 2010 3:00:00 PM CDT

Bid Contact Loren Breland
Purchasing Agent Assistant III
512-854-4854

Contract Duration 1 year
Contract Renewal 2 annual renewals
Prices Good for 90 days

Standard Disclaimer Unless otherwise noted, there is no fee charged to the vendor to participate in an electronic solicitation issued by Travis County.

Travis County reserves the right to reject any or all bids, in whole or in part, to waive any informality in any bid, and to accept that bid which, in its discretion, is in the best interest of Travis County.

Item Response Form

Item B100180-LD-1-01 - Aviation Fuel
Quantity 84000 gallon
Unit Price
Delivery Location Travis County
E1 STAR FLIGHT/TRAVIS COU
EMERGENCY SERVICE
7800 OLD MANOR ROAD
AUSTIN TX 78724
Qty 84000

Description
Aviation Fuel, Turbine
Type Jet A, ASTM D1655 (Latest Issue)
Estimated Annual Requirement - 84,000 Gallons

PRICING

a. This contract shall be based on the bidder's Gallon Differential applied to Platt's Oilgram Gulf Coast Spot (Low) Five Day Trailing Average, Tuesday Posting.

b. The weekly fuel price per gallon for fuel shall be determined by applying the vendor's differential to the Platt's Oilgram Gulf Coast Spot (Low) Five Day Trailing Average, Tuesday Posting gallon price in effect on Tuesday of each week. The resulting weekly fuel prices will be effective from Tuesday each week through the following Monday. The differential must be a firm dollar amount during the contract; the differential shall be set to four (4) decimal places, and shall be identified in the vendor's bid as either negative or positive. This gallon differential shall include any costs involved with the supply and delivery of aviation fuel to the County. Bidder must supply the County Purchasing Office with one (1) copy of the Platt's Oilgram Gulf Coast Spot (Low) Five Day Trailing Average, Tuesday Posting on Tuesday of each week of the contract.

SPECIFICATIONS

Bidder agrees to provide Travis County with Aviation Fuel, Turbine Type Jet A, in accordance with the Specifications, Terms and Conditions of this Invitation for Bid at the below prices. The gallon differential entered in item response form is solely for the purpose of securing bid prices for evaluating bids on a common quantitative basis. The gallon differential will remain firm throughout the term of the contract.

Firm Fixed Prices are to be offered for the items listed below.

Aviation Fuel, Turbine
Type Jet A, ASTM D1655 (Latest Issue)
Estimated Annual Requirement - 84,000 Gallons

JET FUEL (GRADE 54) SPECIFICATIONS

		ASTM LATEST EDITION		SPECIFICATIONS
Acidity, Total, MG KOH/G	Max	D974	0.1	(See Note A)
Aromatics, Vol%	Max	D1319	22-25	
Mercaptan Sulfur, WT.%	Max	D3227	0.003	
Sulfur, Total WT.%	Max	D4294	0.3	
Distillation		D86		
10% Recovered F	Max		400	
50% Recovered F			Report	
90% Recovered F			Report	
End Point F	Max		572	
Distillation Residue, Vol%	Max		1.5	
Distillation Loss, Vol%	Max		1.5	
Flash Point, F		D56	104 Min,*	(See Note B)
Gravity, API @ 60 F	Min/Max	D4052	37-51	
Freezing Point, C	Max	D2386	-40	
Viscosity, -4 F CST	Max	D445	8	
Net Heat of Combustion, BTU/LB	Min	D1405	18,400	(See Note C)
Combustion Properties:				
One of the following requirements shall be met				
1. Luminometer No., or	Min	D1740	45	
2. Smoke Point, or	Min	D1322	25	
3. Smoke Point and	Min	D1322 & D1840	19	
Naphthalenes Vol%	Max		3.0	
Corrosion, Copper strip, Z HRS. @ 212 F Max		D130	No. 1	
Thermal Stability:				
Filter Pressure Drop (MMHG)	Max	D3241	25	(See Note D)
Tube Deposit Less Than			Code 3	

Existent Gum Max, MG/100ML		D381	7	
Water Reaction		D1094		
Separation Rating	Max		2	
Interface Rating	Max		1B.	
Additives				(See Note E)
Appearance				
Color, Saybolt	Min	D156	15	(See Note F)
WSIM	Min	D394B	85	
Conductivity (PS/M)			Report	

- * Minimum 104 F applies at the origin location. Minimum of 100 F will apply at destination.
- A. Fuel over 20 Volume % and not exceeding 25 Volume % of aromatics is permitted provided the supplier (seller) notifies the purchaser of the volume, destination and aromatic content at date of such shipments.
- B. Method D56 is the preferred method, in case of dispute, Method D56 will apply.
- C. Use for Jet A the value calculated from table 8 on EOS. 5 and 9 in Method D1405. Test Method D2382 may be used as an alternative. In case of dispute D2382 must be used.
- D. Thermal stability test shall be conducted for 2.5 hours at a control temperature of 260 C but if the requirements of the above specification are not met, the test may be conducted for 2.5 hours at a control temperature of 245 C. Results of both test temperatures shall be reported in this case. Tube deposits shall always be reported by the visual method; a rating by the tube deposit rating (TDR) optical density is desirable, but not mandatory.
- E. Product meets military jet specifications as specified in ASTM D1655. No additives other than anti-oxidants and metal deactivators as set forth in ATM D1655 (Latest Edition) section 5.2 shall be permitted.
- F. Product shall be clear and bright and free of suspended water and sediment.

Bidders are required to submit, with their bid, specifications on their proposed product.

SPECIAL PROVISIONS

1. **OBJECTIVE:** To establish an annual requirements contract for Type Jet A Aviation Fuel for the Travis County Emergency Services Department.
2. **TERM OF CONTRACT:** This contract will be for a twelve (12) month period commencing on May 12, 2010, or upon award by the Travis County Commissioners Court, whichever is later, with two (2) twelve (12) month options to renew, subject to approval of the Commissioners Court.
3. **OPTION TO EXTEND:** County may unilaterally extend this Contract for (i) two (2) additional one (1) year periods and (ii) three (3) additional one (1) month periods (individually, an "Option to Extend" and collectively, the "Options to Extend"), and all provisions of this Contract, except for term and price, shall remain unchanged and in full force and effect. County shall exercise an Option to Extend no sooner than ninety (90) days prior to expiration of the then current term. The total term of this Contract, including the Options to Extend, shall not exceed thirty-nine (39) months. County shall have the right to exercise all or a portion of the Option to Extend in any combination it deems necessary.
4. **METHOD OF AWARD:** Award, if any, will be made to the responsible bidder submitting the lowest gallon differential per gallon as specified and meeting all the requirements of this Invitation for Bid. Travis County reserves the right to award on an "all or none" basis.
5. **PRICING TERMS:** Bidder's Gallon Differential applied to Platt's Oilgram Gulf Coast Spot (Low) Five Day Trailing Average, Tuesday Posting.

The amount to be bid under this supply contract, at which the bidder will deliver the fuel, shall be a number expressed in cents (no more than four decimal places) representing the gallon differential applied to the Platt's Oilgram Gulf Coast Spot (Low) Five Day Trailing Average, Tuesday Posting. The Platt's Oilgram Gulf Coast Spot (Low) Index shall be subject to increase or decrease on a weekly basis during the term of the contract, as determined by the Market. The Index shall be submitted each Tuesday during the contract term, with that price in effect for the period of Tuesday through Monday. The County will be invoiced at the Index per gallon price plus the gallon differential based on the Index in effect at the time of delivery.

The gallon differential offered shall remain firm for the term of the contract except for changes in governmental regulations and fees beyond the control of the Contractor. If such changes do occur, it will be the responsibility of the Contractor to provide documentation to Travis County substantiating the change to the firm markup. In the event Travis County does not agree with increase in this area, the County may terminate the contract and resolicit the requirement. The contractor agrees to hold the markup firm for 90 days after the County elects to not accept the requested increase.

The gallon differential offered should reflect the bidder's cost relating to provision of the fuel. Accordingly, it must include such costs as: freight; bidder's profit margin; discounts; etc.

The gallon differential offered must not include any taxes, super fund or environment fees. Travis County is exempt from Federal Excise and Federal Fuel Taxes.

Chain and/or percentage discounts or markups are not acceptable and will not be considered in determining an award. Bidders must bid only one gallon differential for the item specified.

6. **TRANSPORT LOADS:** The County anticipates orders to be for full tanker loads of approximately 7000 gallons or more. However, purchases will be made as needed. Monthly fuel consumption over the previous twelve (12) months has been approximately 7,000 gallons per month.
7. **DELIVERY:** Delivery shall be made within forty-eight (48) hours of a purchase order notification. The Contractor will schedule deliveries to Travis County facilities for unloading from Monday through Friday (exclusive of County holidays) during the delivery hours of 8:00 a.m. to 4:00 p.m. Delivery shall be completed by the latest hour shown. Any emergency delivery before or after normal delivery hours must be approved by authorized Travis County personnel. Each delivery location has a 10,000 gallon underground storage tank.

Deliveries shall be by properly certified transport truck to:

Primary Location

Travis County Starflight Facility

7800 Old Manor Road

Austin, Texas 78724

Point of Contact: Stan Wedell

Phone: 512-236-6462

Secondary Location

Brackenridge Hospital Helipad

1313 Red River

Austin, TX 78701

Point of Contact: Stan Wedell

Phone: 512-236-6462

NOTE: The secondary location at the Brackenridge Hospital Helipad is on a slope that makes it difficult to unload the last remaining approximate 250 gallons. It is requested that this remaining fuel be delivered to the Starflight Facility, 7800 Manor Road.

Deliveries shall be made on a gross gallon basis. Net gallons must also be indicated and each load shall be adjusted to 60 degrees Fahrenheit temperature at the loading terminal in all cases.

Transport trucks making deliveries shall be properly certified by the State of Texas Railroad Commission and have bonded and insured drivers. Travis County reserves the right to request copies of such certificates within five (5) days after notification to the Contractor.

Delivery tickets must be signed by AUTHORIZED PERSONNEL ONLY. A copy of the delivery ticket must be given to Travis County at the time of delivery.

The Contractor agrees that no delivery will be made without prior authorization, written or verbal, from Travis County or Brackenridge/Seton Healthcare Network. A written purchase order for Travis County purchases will be issued by fax to confirm all verbal orders.

8. **UNLOADING OF PRODUCT:** Contractor shall not unload product or leave the premises until the authorized Receiving Personnel have conducted the following required checks and procedures.
- a. Check contents of tanker to verify type, quality and grade of fuel.
 - b. Check manifest, Bill of Lading and/or invoice to verify loading temperature, gross and net gallons being delivered.
 - c. Ensure that identifying documents refer to the Travis County Contract Number and Purchase Order Number.
 - d. If it is determined by Travis County that a fuel sample is required, no unloading will be authorized until such sample has been taken.
 - e. Travis County Receiving personnel will take stick measurements of underground storage tanks before and after unloading of fuel.
9. **INSPECTION AND REJECTION:** The fuel supplied shall meet specified minimum quality standards specified in the technical specifications.

Travis County shall have the right upon delivery of Aviation Fuel to determine compliance with such standards by performing tests in accordance with the methods prescribed by the American Society for Testing Materials ("ASTM"). If the Contractor questions or disputes the result of tests made by Travis County, Travis County shall have the right to appoint a chemist, who is also acceptable to the Contractor to make such tests as it may deem necessary. The expense of such tests shall be paid by the Contractor if it is determined that the Aviation Fuel fails to satisfy the quality standards and by Travis County if it is deemed that the Aviation Fuel satisfies such quality standards. The decision of the chemists shall be final and binding on the parties.

Travis County may, if the results of testing show the fuel to be deficient, require the Contractor to:

- 9.1 Remove and replace all product from storage and dispensing equipment within three (3) working days.
- 9.2 Reimburse Travis County for all material and labor costs, plus administrative costs, incurred in replacing product in affected aircraft.
- 9.3 Reimburse Travis County for any and all material and labor costs, plus administrative costs, incurred by damage caused to facilities and/or vehicles by defective product.
- 9.4 Prepare and deliver a written program designed to eliminate deliveries of defective product.

10. **SPILLAGE AND CLEANUP:** Contractor shall be solely responsible for all spillage which may occur during transit and unloading operations and shall immediately cleanup and report any spillage to the ordering department. Contractor shall be responsible for all cost incurred by County in the event Contractor fails to take proper or timely action to cleanup spillage.
11. **MEASUREMENTS:** Contractor shall make appropriate adjustments for temperature or conditions of loading, pumping, unloading, or other factors likely to affect the volume of the fuel, so that gallons are measured relative to a temperature of 60 degrees fahrenheit.
12. **PLACEMENT OF ORDERS:** Within Twenty-four (24) hours after verbal notice of award by the County Purchasing Agent, Contractor shall provide Starflight with the name of the person with whom telephone orders shall be placed and their telephone number.
13. **DOCUMENTATION:** Bidder shall submit the following documents with his bid, or at a minimum, subsequent to bid opening, as applicable. **HOWEVER, IT SHOULD BE UNDERSTOOD BY ALL BIDDERS THAT TRAVIS COUNTY RESERVES THE RIGHT TO REJECT BID SUBMISSIONS THAT DO NOT CONTAIN ALL OF THE DOCUMENTATION DETAILED BELOW.**
 - (a) Ethics Affidavit (with bid)
 - (b) Historically Underutilized Business (HUB) Declaration (with bid)
 - (c) List of Certified HUB Subcontractors (with bid)
 - (d) Three Complete Sets of Bid Package (if manually submitted)
 - (e) Bidder's Fuel Specifications (with bid)

May 2009

BIDDING INSTRUCTIONS For INVITATION FOR BIDS (IFB)

- 1. PREPARATION OF BIDS:** Bids will be prepared in accordance with the following:
 - (a) Bidders must thoroughly examine the drawings, specifications, schedule, instructions and all other IFB documents.
 - (b) Bidders shall make all investigations necessary to thoroughly inform themselves regarding plant and facilities for delivery of material and equipment as required by the bid conditions.
 - (c) All information required by the bid form must be furnished. The bidder must print or type his name and manually sign and return three individual copies of the Invitation for Bids.
 - (d) Alternate bids will not be considered unless authorized by the Invitation for Bids.
 - (e) Bidder must not include federal nor Texas limited sales, excise and use taxes in bid prices since the County is exempt from payment of such taxes. (TEX. TAX CODE ANN. 151.309 {Vernon Supp. 1995})
 - (f) If no entry is made in the "BIDDING ON" blank after each item, if used, the Contractor shall furnish the exact brand name and model number specified in the item description.
- 2. DESCRIPTION OF SUPPLIES:** Any catalog or manufacturer's reference used in describing an item is merely descriptive, and not restrictive unless otherwise noted, and is used only to indicate type and quality of material. Bidders must state exactly what they intend to furnish.
- 3. CLARIFICATION OR OBJECTION TO BID SPECIFICATION:** If any person contemplating submitting a bid for this contract is in doubt about the true meaning of any part of the specifications or other bid documents, he may submit a request for clarification to the Purchasing Agent. All requests for clarification must be in writing and delivered to the Purchasing Agent at least 5 days before the scheduled bid opening. The person submitting the request is responsible for delivering it on time. Interpretations of the bid will only be made by Bid Amendment, which will be provided to each person receiving a set of bid documents. Any objection to the specifications and requirements in this bid must be filed in writing with the Purchasing Agent at least 5 days before the scheduled bid opening. Bidders cannot rely on any explanation or interpretation that is not in compliance with this paragraph.
- 4. PRE-BID CONFERENCE:** This section applies if a pre-bid conference is included in the solicitation requirements:
 - (a) By submitting a bid, the bidder warrants that he/she is fully satisfied that these specifications, as amended if applicable, accurately describe or indicate that all conditions, site or otherwise, have been taken into account in determining the bid price(s). There will be no increase in the contract price based upon a bidder's misunderstanding or lack of knowledge about the intent of this solicitation.
 - (b) Bidders are encouraged to attend the Pre-Bid conference and make their attendance a matter of record by completing a sign-in roster identifying the prospective bidder, name, and title of their attending representative.
 - (c) The purpose of the Pre-Bid Conference is to insure:
 - (1) A clear understanding of County needs,
 - (2) The accuracy of specifications, descriptions, and solicitation terms, conditions, and documents,
 - (3) Identifying any problems that might prevent obtaining the proper services or equipment/supplies, at a fair and reasonable price, or any issues that inhibit a fair and accurate solicitation or restrict competition.
 - (d) Bidders having questions concerning specifications should submit them in writing to the County Purchasing Agent at the address shown on Page 1 of this solicitation. Questions should be submitted not later than one week preceding the date set for the Pre-Bid Conference so that appropriate information may be researched and made available during the Pre-Bid Conference to all concerned.
 - (e) Any changes resulting from the Pre-Bid Conference affecting specifications, the scope of work, or which may require an extension to the bid opening date will be reduced to writing in the form of an amendment to this solicitation. Such amendment will be disseminated to all prospective bidders.
- 5. SUBMISSION OF BIDS:** Travis County uses RFP Depot to distribute and receive bids and proposals. There will be **NO COST** to the vendor for bids or proposals conducted by Travis County. Bids can be submitted electronically through RFP Depot or by hard copy. Refer to www.rfpdepot.com for further information.
Should you choose to submit your bid by hard copy, Bids and Bid Amendments must be enclosed in **SEALED ENVELOPES** and delivered to the Purchasing Agent at the address within. The **NAME AND ADDRESS OF BIDDER**, the **DATE OF THE BID OPENING**, **MATERIAL OR SERVICES BID ON**, and the **IFB NUMBER** must be placed on the outside of the envelope.
 - (a) Bids must be submitted in triplicate on the forms furnished. Other bid forms are not acceptable. Telegraphic bids will not be considered; however, bids may be modified by telegraphic notice if it is received before the time and date set for the bid opening and specific bid prices are not exposed by the amendment.
 - (b) Bidder warrants that his price shall remain firm and subject to acceptance by the Commissioners Court for a period of 90 calendar days after bid opening date, unless otherwise indicated in his bid.
 - (c) When stipulated by the Invitation for Bids, bidder must submit a Bid Bond in an amount equal to 5% of his bid. Bid Bond must be submitted with the bid in the form of a **SURETY BID BOND** executed with a Surety Company authorized to do business in Texas, **CASHIERS CHECK, OR IRREVOCABLE LETTER OF CREDIT**, made payable to Travis County. Bid Bond in each form shall be conditioned on the successful bidder executing a contract and providing a Performance Bond, if required. Bid Bonds shall be returned 10 days after either contract award or the successful bidder providing a Performance Bond, if required, whichever is later.
 - (d) Bidders are required to submit their bids upon the following express conditions. No plea of ignorance by the bidder of conditions that exist or that may exist as a result of failure or omission by the bidder to make the necessary investigations, or failure to fulfill in every detail the requirements of the contract documents, will be accepted as a basis for varying the requirements of the County or the compensations to the contractor.
 - (e) The bidder must provide unit prices where required and if a conflict between the unit price and total price exists, the unit price shall govern.
- 6. BID PRICES:** Unit prices quoted shall remain firm for the period of the contract and shall include the cost of shipping and delivery of all items to the designated FOB point and shall not include Federal or State of Texas sales, excise and use taxes. Bidder must include any and all cost in the delivered unit price entered in the Schedule of Items.
- 7. WITHDRAWAL OF BIDS:** Bidders may not withdraw their bid after the time set for bid opening, unless approved by the Commissioners Court.
- 8. LATE BIDS OR MODIFICATIONS:** The Purchasing Agent will not accept bids and modifications to bids received after the time set for bid opening.
- 9. REJECTION OF BIDS:** County may reject a bid if it is not satisfactory to Commissioners Court.
 - (a) No bid submitted shall be favorable considered if the bidder is determined, in the sole discretion of County, to be delinquent in the payment of County

property taxes when bids are opened.

(b) The County may reject all bids and re-advertise if appropriate, whenever it is deemed in the best interest of the County and may reject any part of a bid unless the bid has been qualified as all or none. Issuance of this solicitation does not commit County to pay any costs incurred in the preparation of a bid.

10. PRE-AWARD SURVEY: After bid opening and before award, County may perform a pre-award survey of the bidder's facilities and equipment to be used in the performance of work under this solicitation. Bidder agrees to allow all reasonable requests for inspection of his facilities with 2 days advance notice.

11. AWARD OF CONTRACT: Commissioners Court shall either award the contract to the responsible bidder who submits the lowest and best bid or may reject all bids and issue a new solicitation. If two responsible bidders submit the lowest and best bid, the Commissioners Court shall decide between the two by drawing lots in a manner prescribed by the County Judge. A contract may not be awarded to a bidder who is not the lowest dollar bidder meeting specifications unless, before the award, each lower bidder is given notice of the proposed award and is given an opportunity to appear before the Commissioners Court and present evidence concerning the lower bidder's responsibility or responsiveness. The County may also waive any minor informalities or irregularities in any bid.

(a) The County may accept any item or group of items in this bid, unless the bidder limits acceptance of his bid to an "All or None" basis.

(b) Prices must be quoted **F.O.B. DESTINATION** with all transportation charges prepaid, unless otherwise specified in the Invitation for Bids.

(c) The Delivery Time or Delivery Schedule offered by bidders will be considered in determining the lowest and best bid.

(d) If the state where a nonresident bidder has its principle place of business discriminates against Texas bidders, Texas law requires that nonresident bidder to underbid Texas bidders by the same amount that Texas bidders would be required to underbid that bidder in its home state. TEX. GOV'T CODE ANN., ch. 2252 (Vernon Supp. 1995). This provision does not apply to a contract involving federal funds.

(e) Prompt payment discounts will not be considered in determining low bids and making awards.

(f) A binding contract results when the Purchasing Agent signs a "Contract Award" sheet, attaches it to the Invitation For Bid, and delivers it to the bidder who completed it and returned it as his bid.

12. PURCHASE ORDER: Contractor will not deliver any items and/or perform any services until a purchase order number is assigned by the designated representative of the County Purchasing Office. Contractor will reference purchase order and contract number on all invoices submitted to the Travis County Auditor. Upon issuance of a purchase order, the contract administrator will call the Contractor with the items needed or work to be performed. The Contractor must respond by supplying the parts or performing the maintenance service at the time required. Failure to act in this manner may result in termination of this contract.

13. DELIVERED SUPPLIES:

(a) If the Contractor did not specify what he intends to furnish, he must furnish items as specified in the item description.

(b) Contractor certifies that any substitute brand matches the essential performance and salient characteristics of the Brand Name stated in the item description and must replace it if it does not conform.

(c) All supplies or equipment shall be the latest improved model meeting specifications in current production at the time of delivery. The delivered items shall be of new manufacture including all parts, components, and accessory items. Equipment shall be delivered completely assembled, adjusted, serviced, and ready for continuous heavy-duty service.

14. PROTESTS: Protests before award must be submitted in writing to the Purchasing Agent not later than 6 calendar days after bid opening, and protests after award must be submitted within 10 days after award by Commissioners Court. The Purchasing Agent shall rule on the protest in writing within 10 days after date of receipt. Any appeal of the Purchasing Agent's decision must be made within 10 days after receipt and submitted to the Purchasing Agent, who shall present the matter for final resolution to Commissioners Court. Appellant shall be notified of the time and place the appeal is to be heard by Commissioners Court and afforded an opportunity to present evidence in support of the appeal.

15. DISPUTES AND APPEALS: The Purchasing Agent shall act as the County representative in the issuance and administration of this contract, and shall issue and receive all documents, notices, and correspondence. Except as provided in Par. 34, all documents, notices and correspondence not issued by or to the Purchasing Agent are void, and are considered as not having been issued or received. If the Appellant does not agree with any statement in a document, notice, or correspondence issued by the Purchasing Agent, he must give written notice of the exact point of disagreement to the Purchasing Agent within 10 days after receipt of the statement. If the matter is not resolved to the Appellant's satisfaction, then he shall submit a Notice of Appeal to the Commissioners Court through the Purchasing Agent within 10 days after receipt of an unsatisfactory reply. Appellant shall then have the right to be heard by Commissioners Court.

16. HUB PROCUREMENT PROGRAM:

(a) The Commissioners Court unanimously adopted the City of Austin's Minority and Woman-Owned Business Enterprise goals and sub-goals, replacing the initial 30% HUB goal, to be observed by the County in its award of contracts and subcontracts to certified HUBs.

(b) It is the policy of Travis County that HUBs shall have the maximum opportunity to participate in the performance of county contracts and subcontracts. Contractors shall make a "good faith effort" to take all necessary and reasonable steps to ensure HUBs maximum opportunity to participate as subcontractors. Failure by a contractor or subcontractor to carry out the County HUB Procurement Program shall constitute a breach of contract, and after notification of such breach by the Purchasing Agent may result in termination of this contract.

(c) For purposes of HUB participation, Travis County shall count the dollar amount of all firm fixed price/fixed quantity contracts, or the dollar amount of Purchase Orders placed against "Estimated" or "Not to Exceed" contracts.

(d) The following identifies specific procedures to be followed with respect to this Invitation For Bid in compliance with the HUB Procurement Program.

(e) To be eligible under this program, HUB Proposers and subcontractors must:

(1) Be certified as HUB, M/WBE or DBE source by the City of Austin Municipal Government, Texas Unified Certification Program, or State of Texas Building and Procurement Commission

(2) Have on file in the Travis County Purchasing Office a proper Bidder's Application.

(3) Identify the certifying agency and Item/Service for which is certified.

(4) Obtain county approval of all proposed HUB subcontractors through the Purchasing Agent.

(f) Complete the HUB Declaration form and Eligibility Declaration form in this IFB package.

(g) Any third party may challenge a firm's HUB status before or after certification. Such action shall be in writing and submitted to the Purchasing Agent, including all relevant information available. If no merit to the challenge is found, the challenging party will be notified by the Purchasing Agent in writing and the matter will be considered closed. If merit is found, the firm in question will be notified by the Purchasing Agent of the challenge, who made it, and a summary of the allegations. The challenged firm shall be required to submit, within a reasonable period of time, information in support of the firm's HUB status. The Purchasing Agent shall make an evaluation and notify the parties of a proposed determination, citing the basis for the decision,

and providing an opportunity for an informal hearing to interested parties and affording an opportunity for a written or personal response. The Purchasing Agent shall make a recommendation to the Commissioners Court for a final determination. The Purchasing Agent shall inform all interested parties of the Commissioners Court's determination and its reasons. A firm's HUB status shall remain accurately certified during the challenging procedure and shall not be changed unless or until a successful challenge is finalized.

17. Conflict of Interest Questionnaire

If required under Chapter 176 Texas Local Government Code, Contractor shall file a completed Conflict of Interest Questionnaire in accordance with the requirements of that Chapter. Within the applicable, authorized time period prescribed in Chapter 176, Contractor shall file the completed Conflict of Interest Questionnaire with the Travis County Clerk, Recording Division, 5501 Airport Blvd., Austin, Texas 78751. Contractor shall file an updated, completed questionnaire with the Travis County Clerk not later than the seventh (7th) business day after the date of an event that would make a statement in the questionnaire incomplete or inaccurate. The Contractor should note that the law requires that the County provide access to a filed Questionnaire on the official Travis County Internet website. However, the law does not require that the County release information which is excepted from disclosure under the Texas Public Information Act. As between County and Contractor, Contractor shall be solely responsible for the preparation of its Conflict of Interest Questionnaire, the accuracy and completeness of the content contained therein and ensuring compliance with all applicable requirements of Chapter 176, Local Government Code.

1. GENERAL DEFINITIONS:

- (a) "Auditor" means the Travis County Auditor or her designee.
- (b) "Commissioners Court" means Travis County Commissioners Court.
- (c) "Contract" means the contract awarded pursuant to the Invitation for Bids.
- (d) "Contractor" means a person or firm receiving an award of contract from Commissioners Court.
- (e) "County" means Travis County, Texas, a political subdivision of the State of Texas.
- (f) "County Building" means any County owned buildings and does not include buildings leased by County.
- (g) "Historically Underutilized Business" or "HUB" means any entity or association formed to make a profit in which one (1) or more persons who are educationally or economically disadvantaged because of their identification as members of one of the following groups: African Americans, Hispanic Americans, Asian Pacific Americans, Native Americans or Women of any ethnicity have the following rights:
 - (1) own at least fifty-one percent (51%) of all classes of shares or other equitable securities and have incidents of ownership, including an interest in profit and loss, equivalent to the percentage of capital, equipment or expertise contributed to the business where ownership is measured as though the community property interest of a spouse is the separate property of that spouse, if both spouses certify in writing that the non-participating spouse relinquishes control over his or her spouse, and his or her community property, and not as if it is subject to the community property interest of the other spouse; and
 - (2) have a proportionate interest and demonstrated active participation in the control, operation and management of the business's affairs; where control means having recognized ultimate control over all day-to-day decisions affecting the business, and is be known to, and at least tacitly acknowledged in day-to-day operations by employees of the business and by those with whom business is conducted, and holding a title commensurate with that control.
- (h) "Is doing business" and "has done business" mean:
 - (1) Paying or receiving in any calendar year any money or other valuable thing which is worth more than \$250 in the aggregate in exchange for personal services or for purchase of any property or property interest, either real or personal, either legal or equitable; or
 - (2) Loaning or receiving a loan of money; or goods or otherwise creating or having in existence any legal obligation or debt with a value of more than \$250 in the aggregate in a calendar year;
 - (3) but does not include any retail transaction for goods or services sold to a Key Contracting Person at a posted, published, or marked price available to the general public.
- (i) "Key Contracting Person" means any person or business listed in Exhibit A to Affidavit.
- (j) "Purchasing Agent" means the Travis County Purchasing Agent.
- (k) "Sub-contractor" means a person or firm doing business with a Contractor.

2. FUNDING: Funds for payment on this Contract have been provided through the County budget approved by Commissioners Court for this fiscal year only. State of Texas statutes prohibit the obligations and expenditure of public funds beyond the fiscal year for which a budget has been approved. However, the cost of items or services covered by this Contract is considered a recurring requirement and is included as a standard and routine expense of Travis County to be included in each proposed budget within the foreseeable future. County Commissioners expect this to be an integral part of future budgets to be approved during the period of this Contract except for unanticipated needs or events which may prevent such payments against this Contract. However, County cannot guarantee the availability of funds, and enters into this Contract only to the extent such funds are made available. The Fiscal Year for County extends from October 1st of each calendar year to September 30th of the next calendar year.

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

4. INVOICING/PAYMENTS:

- (a) Contractor shall provide County with an Internal Revenue Form W-9, Request for Taxpayer Identification Number and Certification, that is completed in compliance with the Internal Revenue Code and its rules and regulations before any Contract funds are payable.
- (b) As a minimum, invoices shall include: (i) name, address, and telephone number of Contractor and similar information in the event payment is to be made to a different address; (ii) County Contract or Purchase Order number; (iii) identification of products or services as outlined in this Contract; (iv) quantity or quantities, applicable unit prices, total prices, and total amount; and (v) any additional payment information called for by this Contract. County will not pay invoices that are in excess of the amount authorized by the purchase order.
- (c) Payment shall be made by check or warrant by County upon satisfactory delivery and acceptance of products and services and submission of an invoice to the address below:
 County Auditor
 P.O. Box 1748
 Austin, Texas 78767
- (d) Payment shall be deemed to have been made on the date of mailing of the check or warrant. For purposes of payment discounts, time will begin upon satisfactory delivery of products and services and/or submission of acceptable invoice, whichever is last. Partial payments will not be made unless specifically requested and approved by County prior to Contract award.
- (e) Accrual and payment of interest on overdue payments shall be governed by TEX. GOV'T CODE ANN., ch. 2251.

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

6. PROMPT PAYMENT ACT: TEX. GOV'T CODE ANN., ch 2251 (Vernon Supp. 1995) requires that payments be made within 30 calendar days. If County fails to pay within 30 days, 1% percent per month interest must be added at the time payments are made. The law does not apply if the terms of a federal grant, contract, regulation, or statute prevents local governments from making timely payments with federal funds. Contractors and subcontractors must pay their suppliers 1% percent per month interest if the supplier is not paid within 10 calendar days after the contractor or subcontractor receives payment. Contractors must apply for interest payments within 6 months of submitting a proper invoice if they believe such interest was due but not paid. Interest begins accruing 30 days after either of the following, whichever is later; (i) satisfactory delivery or performance has been completed, or, (ii) a correct invoice is received at the designated place.

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

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

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

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

11. NONDISCRIMINATION; CIVIL RIGHTS/ADA COMPLIANCE:

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

12. CHANGES:

- (a) This Contract may be amended only by written instrument signed by both County and Contractor. It is acknowledged by Contractor that NO OFFICIAL, EMPLOYEE, AGENT OR REPRESENTATIVE OF COUNTY HAS ANY AUTHORITY, EITHER EXPRESS OR IMPLIED, TO CHANGE THE SCOPE OF THIS CONTRACT OR OTHERWISE AMEND THIS CONTRACT, OR ANY ATTACHMENTS HERETO, UNLESS EXPRESSLY GRANTED THAT AUTHORITY BY THE COMMISSIONERS COURT.
- (b) Contractor shall submit all requests for changes to this Contract or any attachment(s) to it to the Purchasing Agent. The purchasing Agent shall present Contractor's requests to Commissioners Court for consideration.

13. REPRESENTATIONS:

- (a) Contractor represents that he has thoroughly examined the drawings, specifications, schedule, instructions and all other contract documents. Contractor has made all investigations necessary to be thoroughly informed regarding plant and facilities for delivery of material, equipment and/or services as required by the proposal conditions.
- (b) The Contractor's delivery time includes weekends and holidays.
- (c) Contractor certifies that he is a qualified, bondable business entity that he is not in receivership or contemplates it, and has not filed for bankruptcy. He further certifies that the Company, Corporation, Partnership, or Sole Proprietorship is not delinquent with respect to payment of County property taxes.
- (d) Contractor warrants that all applicable patents and copyrights which may exist on items that will be supplied under the contract have been adhered to and further warrants that County shall not be liable for any infringement of those rights. Warranties granted County shall apply for the duration of this contract or for the life of equipment or supplies purchased, whichever is longer. County must not extend use of the granted exclusive rights to any other than County employees or those with whom County has established a relationship aimed at furthering the public interest, and then only for official public uses. County will not knowingly or intentionally violate any applicable patent, license, or copyright. Contractor must indemnify County, its officers, agents, and employees against all claims, suits, and liability of every kind, including all expenses of litigation, court costs, and attorney's fees arising in connection with any alleged or actual infringement of existing patents, licenses or copyrights applicable to items sold.
- (e) The Contractor warrants that upon execution of a contract with the County, he will not engage in employment practices which have the effect of discriminating against employees or prospective employees because of age, religion, race, color, sex, creed, handicap, or national origin and will submit reports as the County may require to assure compliance.
- (f) Contractor warrants to County that all items delivered and all services rendered will conform to the specifications, drawings, or other descriptions furnished or incorporated by reference, and will be of merchantable quality, good workmanship, and free from defects. Contractor further agrees to provide copies of applicable warranties or guarantees to the Purchasing Agent. Copies will be provided within 10 days after the Notice of Award is issued. Return of merchandise under warranty shall be at Contractor's expense.
- (g) The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees and established commercial selling agencies maintained by the Contractor to secure business. For breach of this warranty, County shall have the right to terminate this contract without liability, or in its discretion to deduct from the contract price, or otherwise recover, the full amount of commission, percentage, brokerage, or contingent fee.

14. SUBCONTRACTS:

- (a) Contractor shall not enter into any subcontracts for any service or activity relating to the performance of this Contract without the prior written approval or the prior written waiver of this right of approval from County. IT IS ACKNOWLEDGED BY CONTRACTOR THAT NO OFFICER, AGENT, EMPLOYEE OR REPRESENTATIVE OF COUNTY HAS THE AUTHORITY TO GRANT SUCH APPROVAL OR WAIVER UNLESS EXPRESSLY GRANTED THAT SPECIFIC AUTHORITY BY THE COMMISSIONERS COURT.
- (b) If a subcontract is approved, Contractor must make a "good faith" effort to take all necessary and reasonable steps to insure HUBs maximum opportunity to be subcontractors under this Contract. Contractor must obtain County approval of all proposed HUB subcontractors through the Purchasing Agent. Failure by Contractor to make a good faith effort to employ HUBs as subcontractors constitutes a breach of this Contract and may result in termination of this Contract.

15. ASSIGNMENT:

- (a) The parties to this Contract shall not assign any of the rights or obligation hereunder without the prior written consent of the other party. NO OFFICIAL, EMPLOYEE, REPRESENTATIVE OR AGENT OF COUNTY HAS THE AUTHORITY TO APPROVE ANY ASSIGNMENT UNDER THIS CONTRACT UNLESS THAT SPECIFIC AUTHORITY IS EXPRESSLY GRANTED BY COMMISSIONERS COURT.
- (b) The terms, provisions, covenants, obligations and conditions of this Contract are binding upon and inure to the benefit of the successors in interest and the assigns of the parties to this Contract if the assignment or transfer is made in compliance with the provisions of this Contract.
- (c) Contractor remains responsible for the performance of this Contract when there is a change of name or change of ownership. If a change of name is required, the Purchasing Agent shall be notified immediately. No change in the obligation of or to Contractor will be recognized until it is approved by Commissioners Court.

16. DISPUTES AND APPEALS: The Purchasing Agent acts as the County representative in the issuance and administration of this contract in relation to disputes. Any document, notice, or correspondence not issued by or to the Purchasing Agent or other authorized County person, in relation to disputes is void unless otherwise stated in this contract. If the Contractor does not agree with any document, notice, or correspondence issued by the Purchasing

Agent, or other authorized County person, the Contractor must submit a written notice to the Purchasing Agent within ten (10) calendar days after receipt of the document, notice, or correspondence, outlining the exact point of disagreement in detail. If the matter is not resolved to the Contractor's satisfaction, Contractor may submit a written Notice of Appeal to the Commissioners Court, through the Purchasing Agent, if the Notice is submitted within ten (10) calendar days after receipt of the unsatisfactory reply. Contractor then has the right to be heard by Commissioners Court.

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

18. FORCE MAJEURE

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

19. NON-WAIVER OF DEFAULT:

- (a) No payment, act or omission by County may constitute or be construed as a waiver of any breach or default of Contractor which then exists or may subsequently exist. NO OFFICIAL, AGENT, EMPLOYEE OR REPRESENTATIVE OF COUNTY MAY WAIVE ANY BREACH OF ANY TERM OR CONDITION OF THIS CONTRACT UNLESS EXPRESSLY GRANTED THAT SPECIFIC AUTHORITY BY THE COMMISSIONERS COURT.
- (b) All rights of County under this Contract are specifically reserved and any payment, act or omission shall not impair or prejudice any remedy or fight to County under it. Any right or remedy in this Contract shall not preclude the exercise of any other right or remedy under this Contract or under any law, nor shall any action taken in the exercise of any right or remedy be deemed a waiver of any other rights or remedies.

20. TERMINATION FOR DEFAULT: Failure by either County or Contractor to perform any provisions of this Contract shall constitute a breach of contract. Either party may require corrective action within ten (10) calendar days after date of receipt of written notice citing the exact nature of the other's breach. Failure to take corrective action or failure to provide a satisfactory written reply excusing such failure within the ten (10) calendar days shall constitute a default. The defaulting party shall be given a twenty (20) calendar day period within which to show cause why this Contract shall not be terminated for default. All notices for corrective action, breach, default or show cause on behalf of County shall be issued by the Purchasing Agent or County legal representative only, and all replies to the same shall be made in writing to the County Purchasing Agent or County legal representative at the address provided herein. Notices issued by or to anyone other than the Purchasing Agent or County legal representative shall be null and void, and shall be considered as not having been issued or received. County reserves the right to enforce the performance of this Contract in any manner prescribed by law in case of default and may contract with another party with or without competition or further notification to the contractor. At a minimum, Contractor shall be required to pay any difference in the cost of securing the services covered by this Contract, or compensate for any loss or damage to the County derived hereunder if it becomes necessary to contract with another source because of a default, plus reasonable administrative costs and attorney's fees. In the event of termination for default, County, its agents or representatives, shall not be liable for loss of any profits anticipated under this Contract.

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

22. GRATUITIES: Contractor shall not provide any gratuity in any form, including entertainment, gifts, or otherwise, to any employee, buyer, agent, or representative of County with a view to securing a contract, or securing favorable treatment with respect to the award or amendment, or the making of any determination with respect to the performance of this Contract. County may terminate this Contract if it is found that gratuities of any kind including entertainment, or gifts were offered or given by the Contractor or any agent or representative of the Contractor, to any County Official or employee with a view toward securing favorable treatment with respect to this contract. If this Contract is terminated by the County pursuant to this provision, County shall be entitled, in addition to any other rights and remedies, to recover from the Contractor at least three times the cost incurred by Contractor in providing the gratuities.

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

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

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

26. FORFEITURE OF CONTRACT:

- (a) The selected Offeror must forfeit all benefits of the contract and County must retain all performance by the selected Offeror Contractor and recover all consideration or the value of all consideration paid to the selected Offeror pursuant to the contract if:
- (b) The selected Offeror was doing business at the time of submitting its proposal offer or had done business during the 365- day period immediately prior to the date on which its proposal offer was due with one or more Key Contracting Persons if the selected Offeror failed to disclose the name of any such

Key Contracting Person in its offer; or

(c) The selected Offeror does business with a Key Contracting Person after the date on which the offer that resulted in the contract is submitted and prior to full performance of the contract.

27. CONTRACTOR CLAIMS NOTIFICATION:

(a) If any claim, or other action, that relates to Contractor's performance under this Contract, including proceedings before an administrative agency, is made or brought by any person, firm, corporation, or other entity against Contractor, Contractor shall give written notice to County of the following information within ten (10) working days after being notified of it:

- (1) The existence of the claim, or other action;
- (2) The name and address of the person, firm, corporation or their entity that made a claim, or that instituted any type of action or proceeding;
- (3) The alleged basis of the claim, action or proceeding;
- (4) The court or administrative tribunal, if any, where the claim, action or proceeding was instituted; and
- (5) The name or names of any person against whom this claim is being made.

(b) Except as otherwise directed, Contractor shall furnish to County copies of all pertinent papers received by Contractor with respect to making these claims or actions and all court pleadings related to the defense of these claims or actions.

28. CERTIFICATION OF ELIGIBILITY: This provision applies if the anticipated Contract exceeds \$100,000. By submitting a bid or proposal in response to this solicitation, the bidder/proposer certifies that at the time of submission, he/she is not on the Federal Government's list of suspended, ineligible, or debarred contractors. In the event of placement on the list between the time of bid/proposal submission and time of award, the bidder/proposer will notify the Travis County Purchasing Agent. Failure to do so may result in terminating this Contract for default.

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

30. CONSTRUCTION OF CONTRACT:

(a) This Contract is governed by the laws of the United States of America and the State of Texas and all obligations under this Contract are performable in Travis County, Texas. Venue for any dispute arising out of this Contract will lie in the appropriate court of Travis County, Texas.

(b) If any portion of this Contract is ruled invalid, illegal, or unenforceable in any respect by a court of competent jurisdiction, the remainder of it shall remain valid and binding.

(c) Headings and titles at the beginning of the various provisions of this Contract have been included only to make it easier to locate the subject matter covered by that part, section or subsection and are not to be used in construing this Contract.

(d) When any period of time is stated in this Contract, the time shall be computed to exclude the first day and include the last day of period. If the last day of any period falls on a Saturday, Sunday, or a day that Travis County has declared a holiday for its employees, these days shall be omitted from the computation. All hours in this Contract are stated in Central Standard Time from 2:00 o'clock a.m. on the first Sunday of November until 2:00 o'clock a.m. on the second Sunday of March and in Central Daylight Saving Time from 2:00 o'clock a.m. on the second Sunday of March until 2:00 o'clock a.m. on the first Sunday of November or such other dates as may be adopted for the activation of Daylight Savings Time in the United States in future years.

(e) Words of any gender in this Contract shall be construed to include any other gender and words in either number shall be construed to include the other unless the context clearly requires otherwise.

(f) Provisions, Words, Phrases, and Statutes, whether incorporated by actual use or by reference, shall be applied to this Contract in accordance with Texas Government Code, §§ 312.002 and 312.003.

31. ADDITIONAL GENERAL PROVISIONS:

(a) Contractor must comply with all Federal and State laws and regulations, City and County ordinances, orders, and regulations, relating in any way to this Contract.

(b) Contractor must secure all permits and licenses, pay all charges and fees, and give all notices necessary for lawful operations.

(c) Contractor must pay all taxes and license fees imposed by the Federal and the State Governments and their agencies and political subdivisions upon the property and business of Contractor.

(d) Despite anything to the contrary in this Contract, if the Contractor is delinquent in payment of property taxes at the time of providing services, Contractor assigns the amount of any payment to be made for services provided under this Contract equal to the amount Contractor is delinquent in property tax payments to the Travis County Tax Assessor-Collector for the payment of the delinquent taxes.

(e) In this subsection, "County Building" means any County-owned buildings and does not include buildings leased by County. Contractor must not execute any mortgage, or issue any bonds, shares of stock, or other evidence of interest in County buildings.

(f) Contractor shall give consideration to recycled boxes, water soluble peanuts, and other products that replace bubble wrap and petroleum based peanuts which are harmful to the environment.

32. INTERPRETATION OF CONTRACT:

(a) This document contains the entire agreement between the parties relating to the rights granted and the obligations assumed. Any prior agreements or representations not expressly set forth in this agreement are of no force. Any oral representations or modifications concerning this agreement shall be of no force except a subsequent modification in writing signed by the Purchasing Agent. No official, representative, employee, or agent of the County has any authority to modify or amend this contract except pursuant to specific authority to do so granted by the Commissioners Court.

(b) If inconsistency exists between provisions of this solicitation, the inconsistency shall be resolved by giving precedence in the following ascending order of precedence:

- (1) The Schedule of Items/Services
- (2) Terms and Conditions of Invitation for Bids;
- (3) General Provisions;
- (4) Other provisions, whether incorporated by reference or otherwise; and
- (5) The specifications.

(c) If any contract provision shall for any reason be held invalid, illegal, or unenforceable in any respect, invalidity, illegality, or unenforceability shall not affect any other provision, and this contract shall be construed as if invalid, illegal or unenforceable provision had never been contained.

(d) This contract shall be governed by the laws of Texas and all obligations are performable in Travis County, Texas.

(e) If a word is used with reference to a particular trade or subject matter or is used as a word of art, the word shall have the meaning given by experts in that particular field.

- (f) Words in the present or past tense include the future tense. The singular includes the plural and the plural includes the singular. The masculine gender includes the feminine and neuter genders.
- (g) The headings in this contract have been included only to make it easier to locate the subject covered by each provision and are not to be used in construing this contract.
- (h) Provisions, words, phrases, and statutes, whether incorporated by actual use or by reference, shall be applied to this contract in accordance with TEX. GOV'T CODE ANN., SEC 312.002, 312.003 (Vernon 1991).

33. MODIFICATIONS:

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

34. **DESIGNATED COUNTY HOLIDAYS 2010:** No deliveries will be accepted on designated holidays, unless specific prior arrangements have been made. Below is the approved holiday schedule. Future schedules are expected to be similar.

HOLIDAY		2010
New Year's Day	 Friday.....	Jan..... 01..... 2010
Martin Luther King, Jr. Day	 Monday.....	Jan..... 18..... 2010
President's Day	 Monday.....	Feb..... 15..... 2010
Memorial Day	 Monday.....	May..... 31..... 2010
Independence Day	 Monday.....	Jul..... 05..... 2010
Labor Day	 Monday.....	Sep..... 06..... 2010
Veteran's Day	 Thursday.....	Nov..... 11..... 2010
Thanksgiving Day	 Thursday.....	Nov..... 25..... 2010
Friday after Thanksgiving	 Friday.....	Nov..... 26..... 2010
Christmas Season	 Thursday.....	Dec..... 23..... 2010
Christmas Season	 Friday.....	Dec..... 24..... 2010

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

36. **INSURANCE AND LIABILITY:** Unless superceded by Special Provisions of this IFB, during the period of this contract, contractor shall maintain at his expense, insurance with limits not less than those prescribed below. With respect to required insurance, Contractor shall;

- (a) Name county as additional insured as its interests may appear.
- (b) Provide county a waiver of subrogation.
- (c) Provide county with a thirty (30) calendar day advance written notice of cancellation or material change to said insurance.
- (d) Provide the County Purchasing Agent at the address shown on Page 1 of this contract, a Certificate of Insurance evidencing required coverages within ten (10) calendar days after receipt of Notice of Award. **Also, please assure your certificate contains the contract number as indicated on the Contract Award form when issued by Travis County.**
- (e) Submit an original certificate of insurance reflecting coverage as follows:

<u>Automobile Liability:</u>	
Bodily Injury (Each person)	\$250,000.00
Bodily Injury (Each accident)	\$500,000.00
Property Damage	\$100,000.00
<u>General Liability (Including Contractual Liability):</u>	
Bodily Injury	\$500,000.00
Property Damage	\$100,000.00
<u>Excess Liability:</u>	
Umbrella Form	Not Required
<u>Worker's Compensation:</u>	Statutory

**TRAVIS COUNTY
PURCHASING OFFICE
314 West 11th Street, Room 400
Austin, Texas 78701**

Respondent Acknowledgement

Vendor Name:

Partnership ☐ Corporation ☐ Sole Proprietorship ☐ Other ☐

Vendor Mailing Address:

Area code / Telephone
Number:

Toll-Free Telephone
Number:

Fax Number:

Vendor E-Mail Address:

Vendor Web Address:

FEID No. or SS#:

Bidder's State of
Residence

Certified Historically Underutilized Vendor (Check One): ☐ Yes ☐ No

In compliance with the terms, conditions and specifications, the undersigned offers and agrees to furnish any and all of the items or services enumerated and upon which prices are bid at the unit price set opposite each item delivered at the designated points(s) within the time specified.

Name of Company Representative Submitting
Response

Title of Company Representative Submitting Response

Date

HISTORICALLY UNDERUTILIZED BUSINESS (HUB) DECLARATION

The primary objective of the Travis County HUB Program is to ensure Historically Underutilized Businesses receive a fair and equal opportunity for participation in the County's procurement process. This fact holds true for Services (Professional & Non-professional), Commodities, and Construction contracts and any subcontracts thereto. The program strongly encourages Prime Contractors to provide subcontracting opportunities to **Certified HUB Contractors/Vendors**.

It is the policy of the Travis County Purchasing Office to ensure a good faith effort is made to assist Certified HUB vendors and contractors in receiving contracts in accordance with the HUB Program policies and the Minority and Woman-Owned Business Enterprise goals adopted by the Travis County Commissioners Court. Our goals for HUB contractor/vendor participation, as well as HUB subcontractor participation, in the area of **COMMODITIES** are as follows:

Overall MBE Goal: 3.5%; **Sub-goals:** 0.3% African-American, 2.5% Hispanic, 0.7% Native/Asian American

Overall WBE Goal: 6.2%

To be considered as a "Certified HUB Contractor/Vendor" the contractor/vendor must have been certified by, and hold a current and valid certification, with any of the three agencies listed below. Please attach copy of certificate.

Vendor/Contractor:

Certified as a HUB or an MBE/WBE/DBE source: ☐ Yes ☐ No HUB Status (Gender & Ethnicity):

If yes, by whom: ☐ Texas Building and Procurement Commission ☐ City of Austin ☐ Texas Unified Certification Program

SUGGESTED DATABASE DIRECTORIES TO VIEW WHEN SOLICITING HUB SUBCONTRACTORS

State: www.tbpc.state.tx.us/cmbi; **City:** www.ci.austin.tx.us/purchase/default.htm; **TUCP:** www.dot.state.tx.us/business/tucpinfo.htm

LIST OF CERTIFIED HUB SUBCONTRACTORS **(DUPLICATE AS NECESSARY)**

What percentage of the Bid or Proposal is to be subcontracted with Certified HUB sources: % (List HUB Subcontractor information below).

HUB Subcontractor Name: HUB Status (Gender & Ethnicity):

Certifying Agency (Check all applicable): ☐ Texas Building and Procurement Commission ☐ City of Austin ☐ Texas Unified Certification Program

Address: City: State: Zip:

Contact Person: Title: Phone No.:

Subcontract Amount: \$ Description of Work to be Performed:

HUB Subcontractor Name: HUB Status (Gender & Ethnicity):

Certifying Agency (Check all applicable): ☐ Texas Building and Procurement Commission ☐ City of Austin ☐ Texas Unified Certification Program

Address: City: State: Zip:

Contact Person: Title: Phone No.:

Subcontract Amount: \$ Description of Work to be Performed:

HUB Subcontractor Name: HUB Status (Gender & Ethnicity):

Certifying Agency (Check all applicable): ☐ Texas Building and Procurement Commission ☐ City of Austin ☐ Texas Unified Certification Program

Address: City: State: Zip:

Contact Person: Title: Phone No.:

Subcontract Amount: \$ Description of Work to be Performed:

EXHIBIT A
LIST OF KEY CONTRACTING PERSONS
March 22, 2010

CURRENT

Position Held	Name of Individual Holding Office/Position	Name of Business Individual is Associated
County Judge ...	Samuel T. Biscoe	
County Judge (Spouse)...	Donalyn Thompson-Biscoe	MHMR
Executive Assistant	Cheryl Brown	
Executive Assistant	Nicole Grant	
Executive Assistant	Melissa Velasquez	
Executive Assistant	Josie Z. Zavala	
Commissioner, Precinct 1.....	Ron Davis	
Commissioner, Precinct 1 (Spouse)	Annie Davis	Seton Hospital
Executive Assistant	Chris Fanuel	
Executive Assistant	Felicitas Chavez	
Commissioner, Precinct 2	Sarah Eckhardt	
Commissioner, Precinct 2 (Spouse).....	Kurt Sauer	Daffer McDonald, LLP
Executive Assistant	Loretta Farb	
Executive Assistant	Joe Hon	
Executive Assistant	Peter Einhorn	
Commissioner, Precinct 3.....	Karen Huber	
Commissioner, Precinct 3 (Spouse)	Leonard Huber	Retired
Executive Assistant	Garry Brown	
Executive Assistant	Lori Duarte*	
Commissioner, Precinct 4.....	Margaret Gomez	
Executive Assistant	Edith Moreida	
Executive Assistant	Norma Guerra	
Special Assistant to Comm. Court	Christian Smith	
County Treasurer.....	Dolores Ortega-Carter	
County Auditor	Susan Spataro	
Executive Manager, Administrative.....	Vacant	
Executive Manager, Budget & Planning	Rodney Rhoades	
Exec Manager, Emergency Services	Danny Hobby	
Exec. Manager, Health/Human Services	Sherri E. Fleming	
Executive Manager, TNR	Joseph Gieselman	
Executive Manager, Criminal Justice Planning	Roger Jefferies	
Travis County Attorney	David Escamilla	
First Assistant County Attorney ...	Steve Capelle	
Executive Assistant, Civil Division.....	Jim Collins	
Director, Transactions Division ...	John Hille	
Attorney, Transactions Division ...	Tamara Armstrong	
Attorney, Transactions Division ...	Daniel Bradford	
Attorney, Transactions Division ...	Mary Etta Gerhardt	
Attorney, Transactions Division ...	Barbara Wilson	
Attorney, Transactions Division ...	Jim Connolly	
Attorney, Transactions Division ...	Tenley Aldredge	
Attorney, Transactions Division ...	Julie Joe	
Attorney, Transactions Division ...	Christopher Gilmore	
Attorney, Transactions Division ...	Beth Devery*	
Attorney, Transactions Division ...	Sarah Churchill	
Purchasing Agent	Cyd Grimes, C.P.M.	
Assistant Purchasing Agent	Marvin Brice, CPPB	
Assistant Purchasing Agent	Bonnie Floyd, CPPO, CPPB, CTPM	
Purchasing Agent Assistant IV	Diana Gonzalez	
Purchasing Agent Assistant IV	Lee Perry	
Purchasing Agent Assistant IV	Jason Walker	
Purchasing Agent Assistant IV	Richard Villareal	
Purchasing Agent Assistant IV	Oralia Jones, CPPB	
Purchasing Agent Assistant IV	Lori Clyde, CPPB	

Purchasing Agent Assistant IV Scott Wilson
 Purchasing Agent Assistant IV Jorge Talavera, CPPB
 Purchasing Agent Assistant IV George R. Monnat, C.P.M., A.P.P.*
 Purchasing Agent Assistant IV John E. Pena, CTPM*
 Purchasing Agent Assistant III Vania Ramaekers, CPPB, CPPO
 Purchasing Agent Assistant III David Walch*
 Purchasing Agent Assistant III Michael Long, CPPB
 Purchasing Agent Assistant III Elizabeth Corey, C.P.M.*
 Purchasing Agent Assistant III Rosalinda Garcia
 Purchasing Agent Assistant III Loren Breland
 Purchasing Agent Assistant II..... Donald E. Rollack
 Purchasing Agent Assistant II..... Nancy Barchus, CPPB
 HUB Coordinator..... Sylvia Lopez
 HUB Specialist .. Betty Chapa
 HUB Specialist .. Jerome Guerrero
 Purchasing Business Analyst..... Scott Worthington
 Starflight..... Stan Wadell

FORMER EMPLOYEES

Position Held	Name of Individual Holding Office/Position	Date of Expiration
Attorney, Transactions Division	Stacy Wilson.....	07/06/10
Executive Manager, Administrative	Alicia Perez	09/01/10
Purchasing Agent Assistant III	Rebecca Gardner	12/28/10
Executive Assistant.....	Kelly Darby	01/15/11

* - Identifies employees who have been in that position less than a year.

STATE OF TEXAS
COUNTY OF TRAVIS

ETHICS AFFIDAVIT

Date:
Name of Affiant:
Title of Affiant:
Business Name of Affiant:
Business Address:
County of Bidder:

Affiant on oath swears that the following statements are true:

1. Affiant is authorized by Bidder to make this affidavit for Bidder.
2. Affiant is fully aware of the facts stated in this affidavit.
3. Affiant can read the English language.
4. Bidder has received the list of key contracting persons associated with this Invitation for Bid which is attached to this affidavit as Exhibit "A".
5. Affiant has personally read Exhibit "A" to this Affidavit.
6. Affiant has no knowledge of any key contracting person on Exhibit "A" with whom Bidder is doing business or has done business during the 365 day period immediately before the date of this affidavit whose name is not disclosed in the Invitation for Bid.

Signature of Affiant

Address

ATTACHMENT 1

ATTACHMENT 2

Bidder acknowledges that Bidder is doing business or has done business during the 365 day period immediately prior to the date on which this bid is due with the following key contracting persons and warrants that these are the only such key contracting persons:

If no one is listed above, Bidder warrants that Bidder is not doing business and has not done business during the 365 day period immediately prior to the date on which this bid is due with any key contracting person.

REFERENCES: Vendor shall complete and return concurrently with this solicitation to the Travis County Purchasing Office. At least three references must be identified. References listed must have done similar business with the vendor within the past two (2) years. County reserves the right to contact customer references listed and to use this information as a consideration when making a procurement decision. Offers will be considered only from contractors who, in the judgment of County, are able to show evidence of responsibility through their satisfactory past performance and demonstrated competence.

1) AGENCY NAME::	
ADDRESS:	
POINT OF CONTACT:	
PHONE NUMBER:	
ADDITIONAL DETAILS:	
2) AGENCY NAME::	
ADDRESS:	
POINT OF CONTACT:	
PHONE NUMBER:	
ADDITIONAL DETAILS:	
3) AGENCY NAME::	
ADDRESS:	
POINT OF CONTACT:	
PHONE NUMBER:	
ADDITIONAL DETAILS:	

Question and Answers for Bid #B100180-LD - AVIATION FUEL (JET A)

OVERALL BID QUESTIONS

There are no questions associated with this bid. If you would like to submit a question, please click on the "Create New Question" button below.

Question Deadline: Apr 14, 2010 3:00:00 PM CDT