

STATE OF TEXAS

§
§

COUNTY OF FORT BEND

§

**THIRD AMENDMENT TO
AGREEMENT FOR AUCTIONEER SERVICES
PURSUANT TO RFP 16-082**

This THIRD AMENDMENT of the AGREEMENT FOR AUCTIONEER SERVICES PURSUANT TO RFP 16-082 is made and entered into by and between FORT BEND COUNTY, TEXAS, a body politic, acting herein by and through its Commissioners Court and Lemons Auctioneers, LLP (hereinafter "Contractor"), a company authorized to conduct business in the State of Texas.

RECITALS

WHEREAS, on or about September 13, 2016, the Parties entered into the Agreement for Auctioneer Services pursuant to RFP 16-082, which was amended on or about October 4, 2016, and March 28, 2017, attached hereto as Exhibit "A" and incorporated by reference;

WHEREAS, the Parties now desire to renew the Agreement for an additional term; and

NOW THEREFORE, for and in consideration of the mutual benefits to be derived by the parties hereto, County, and Contractor agree as follows:

- I. Per Section 5 of the Agreement, Services are hereby renewed; effective April 1, 2018 and shall terminate on March 31, 2019. Terms, conditions, pricing and additional renewal periods shall remain the same.
- II. Certain TxDOT and FTA Requirements for Contracts:

The following clauses are in addition to those already included in the Agreement and any Amendments thereof.

- ## 1) Environmental Protections

The Contractor agrees to, and assures that it will, comply with all applicable environmental and resource use laws, regulations, and requirements, and follow applicable guidance, now in effect or that may become effective in the future, including state and local laws, ordinances, regulations, and requirements and follow applicable guidance.

- ## 2) Safe Operation of Vehicles (Seat Belt)

Contractor shall encourage their employees and other personnel that operate company-owned vehicles, company rented-vehicles, or personally operated vehicles to adopt on-the-job seat belt policies and programs.

3) Texting While Driving

The Contractor agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Contractor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the Award, or when performing any work for or behalf of the County.

4) Child Support

Per Texas Family Code 231.006, a child support obligor or business entity remains ineligible to receive payments from state funds under a contract to provide property, materials, or services; or a state funded loan until: (1) All arrearages have been paid; (2) the obligor is in compliance with a written repayment agreement or court order as to any existing delinquency; or (3) the court of continuing jurisdiction over the child support order has granted the obligor an exemption from ineligibility as part of a court-supervised effort to improve earnings and child support payments.

Before payment can be released Contractor will supply County with the name and social security number of the individual or sole proprietor and each partner, shareholder, or owner with an ownership interest of at least 25 percent of the business entity.

Under Section 231.006, Family Code, the Contractor certifies that the individual or business entity named in this contract, bid, or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate.

5) Debt to the State

The State of Texas shall not be responsible for the debts of the Subrecipient or Subcontractor.

III. Certain State Law Requirements for Contracts:

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

1) Agreement to Not Boycott Israel Chapter 2270 Texas Government Code: By signature below, Contractor verifies Contractor does not boycott Israel and will not boycott Israel during the term of this Agreement.

2) Texas Government Code Section 2251.152 Acknowledgment: By signature below, Contractor represents pursuant to Section 2252.152 of the Texas Government Code, that Contractor is not listed on the website of the Comptroller of the State of Texas concerning

the listing of companies that are identified under Section 806.051, Section 807.051 or Section 2253.153

- IV. Except as modified herein, the Agreement remains in full force and effect and has not been modified or amended.
- V. If there is a conflict among documents, the most recently executed document will prevail with regard to the conflict.

IN TESTIMONY OF WHICH, THIS AMENDMENT shall be effective upon execution of all parties.


FORT BEND COUNTY

By: 

Robert E. Hebert, County Judge

Date: 4-3-2018

ATTEST:


Laura Richard, County Clerk



LEMONS AUCTIONEERS, LLP

By: 

Name: L.P. Lemoas-Campbell

Title: Co Owner / General Manager

Date: 3/23/18

Attachments:

EXHIBIT A: AGREEMENT FOR AUCTIONEER SERVICES PURSUANT TO RFP 16-082 AND ALL AMENDMENTS

AUDITOR'S CERTIFICATE

I hereby certify that funds are available in the amount of \$55,000.00 to accomplish and pay the obligation of Fort Bend County under this contract.


Robert E. Sturdivant, County Auditor

STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

SECOND AMENDMENT TO
AGREEMENT FOR AUCTIONEER SERVICES
PURSUANT TO RFP 16-082

This SECOND AMENDMENT of the AGREEMENT FOR AUCTIONEER SERVICES PURSUANT TO RFP 16-082 is made and entered into by and between FORT BEND COUNTY, TEXAS, a body politic, acting herein by and through its Commissioners Court and Lemons Auctioneers, LLP (hereinafter "Contractor"), a company authorized to conduct business in the State of Texas.

RECITALS

WHEREAS, on or about September 13, 2016, the Parties entered into the Agreement for Auctioneer Services pursuant to RFP 16-082, which was amended on or about October 4, 2016, attached hereto as Exhibit "Two" and incorporated by reference;

WHEREAS, the Parties now desire to renew the Agreement for an additional term; and

NOW THEREFORE, for and in consideration of the mutual benefits to be derived by the parties hereto, County, and Contractor agree as follows:

- I. Per Section 5 of the Agreement, Services are hereby renewed; effective April 1, 2017 and shall terminate on March 31, 2018. Terms, conditions, pricing and additional renewal periods shall remain the same.
- II. Except as modified herein, the Agreement remains in full force and effect and has not been modified or amended.
- III. If there is a conflict among documents, the most recently executed document will prevail with regard to the conflict.

Remainder left blank

Execution page follows

IN TESTIMONY OF WHICH, THIS AMENDMENT shall be effective upon execution of all parties.

"County"
FORT BEND COUNTY

By: [Signature]
Robert E. Hebert, County Judge

Date: March 28, 2017

ATTEST:

Laura Richard

Laura Richard, County Clerk



"Contractor"
LEMONS AUCTIONEERS, LLP

By: [Signature]

Name: Lori Lemons-Campbell

Title: Co. Owner/General Manager

Date: 3/20/17

ATTEST:

Name

Date: _____

Attachments:

EXHIBIT TWO: FIRST AMENDMENT TO AGREEMENT FOR AUCTIONEER SERVICES PURSUANT TO RFP 16-082 AND AGREEMENT FOR AUCTIONEER SERVICES PURSUANT TO RFP 16-082

AUDITOR'S CERTIFICATE

I hereby certify that funds are available in the amount of \$ 60,000.00 to accomplish and pay the obligation of Fort Bend County under this contract.

[Signature]
Robert Ed Sturdivant, County Auditor

EXHIBIT TWO:

FIRST AMENDMENT TO AGREEMENT FOR
AUCTIONEER SERVICES
PURSUANT TO RFP 16-082 AND
AGREEMENT FOR AUCTIONEER SERVICES PURSUANT TO RFP 16-082

AS ATTACHED TO
SECOND AMENDMENT TO
AGREEMENT FOR AUCTIONEER SERVICES
PURSUANT TO RFP 16-082

STATE OF TEXAS

5

5

COUNTY OF FORT BEND

5

FIRST AMENDMENT TO

AGREEMENT FOR AUCTIONEER SERVICES

PURSUANT TO RFP 16-082

This First AMENDMENT of the AGREEMENT FOR AUCTIONEER SERVICES PURSUANT TO RFP 16-082 is made and entered into by and between FORT BEND COUNTY, TEXAS, a body politic, acting herein by and through its Commissioners Court and Lemons Auctioneers, LLP (hereinafter "Contractor"), a company authorized to conduct business in the State of Texas.

RECITALS

WHEREAS, on or about September 13, 2016, the Parties entered into the Agreement for Auctioneer Services pursuant to RFP 16-082 attached hereto as Exhibit "One" and incorporated by reference;

WHEREAS, the Parties now desire to amend a certain portion of the Agreement to clarify the Services to be provided; and

NOW THEREFORE, for and in consideration of the mutual benefits to be derived by the parties hereto, County, and Contractor agree as follows:

1. Amendments

Section One, Scope of Services, is amended as follows:

- A. Contractor shall render Services that meet or exceed the minimum requirements of RFP 16-082 (attached and incorporated as Exhibit A) and as described in the Scope of Work (attached and incorporated as Exhibit B). However, the Parties acknowledge and agree that there is no requirement that Public Transportation items be sold as a separate auction unless County directs Contractor to proceed in such manner.

III. Execution

IN TESTIMONY OF WHICH, THIS AMENDMENT shall be effective upon execution of all parties.

"County"
FORT BEND COUNTY

By:

Robert E. Hebert
Robert E. Hebert, County Judge

Date: 10-4-2016

ATTEST:

Laura Richard
Laura Richard, County Clerk



"Contractor"
LEMONS AUCTIONEERS, LLP

By:

Name:

Cori Lemons-Campbell

Title:

Co-Owner/General Manager

Date:

9/26/2016

As Per Original

ATTEST:

Name

Attachments:

Date:

EXHIBIT ONE: AGREEMENT FOR AUCTIONEER SERVICES PURSUANT TO RFP 16-082

AUDITOR'S CERTIFICATE

I hereby certify that funds are available in the amount of \$100,000⁰⁰ to accomplish and pay the obligation of Fort Bend County under this contract.

Robert Ed Sturdivant
Robert Ed Sturdivant, County Auditor

EXHIBIT ONE:

AGREEMENT FOR AUCTIONEER SERVICES
PURSUANT TO RFP 16-082

ATTACHMENT TO

FIRST AMENDMENT TO
AGREEMENT FOR AUCTIONEER SERVICES
PURSUANT TO RFP 16-082

STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

**AGREEMENT FOR AUCTIONEER SERVICES
PURSUANT TO RFP 16-082**

THIS AGREEMENT is made and entered into by and between Fort Bend County, (hereinafter "County"), a body corporate and politic under the laws of the State of Texas, and Lemons Auctioneers, LLP (hereinafter "Contractor"), a company authorized to conduct business in the State of Texas.

WITNESSETH

WHEREAS, County desires that Contractor provide professional auctioneering service pursuant to and in accordance with RFP 16-082; and;

WHEREAS, Contractor a licensed auctioneer in the State of Texas and represents that Contractor is qualified and desires to perform such services.

NOW, THEREFORE, in consideration of the mutual covenants and conditions set forth below, the parties agree as follows:

AGREEMENT

Section 1. Scope of Services

- A. Contractor shall render Services that meet or exceed the minimum requirements of RFP 16-082 (attached and incorporated as Exhibit A) and as described in the Scope of Work (attached and incorporated as Exhibit B).
- B. The Parties reserve the right to add any service to this Agreement that was offered by Contractor in Contractor's original response to RFP 16-082 but such addition may only be done by a written amendment to this Agreement, signed by both Parties.

Section 2. Personnel

- A. Contractor represents that it presently has, or is able to obtain, adequate qualified personnel in its employment for the timely performance of the Scope of Services required under this Agreement and that Contractor shall furnish and maintain, at its own expense, adequate and sufficient personnel, in the opinion of County, to perform the Scope of Services when and as required and without delays.

- B. All employees of Contractor shall have such knowledge and experience as will enable them to perform the duties assigned to them. Any employee of Contractor who, in the opinion of County, is incompetent or by his conduct becomes detrimental to the project shall, upon request of County, immediately be removed from association with the project.

Section 3. Compensation and Payment

- A. County agrees to pay Contractor for services rendered a commission of 10% of the gross receipts from all sales from a full service live on site public auction without minimum or reserve and no buyer's premium. Contractor is authorized to collect an additional fee from auction purchasers who tender credit card payment provided that the fee does not exceed 3% of the purchase price of the sale.
- B. In no case shall the amount paid by County under this Agreement exceed the Maximum Compensation without an approved change order. The Maximum Compensation is the maximum sum that County may become liable to pay to Contractor and shall not under any conditions, circumstances, or interpretations thereof exceed the amount certified as available by the Fort Bend County Auditor.
- C. County will pay Contractor as outlined in the RFP requirements and based on the following procedures: Upon completion of the tasks identified in the Scope of Services, Contractor shall submit to County two (2) original copies of invoices showing the amounts due for services performed in a form acceptable to County. County shall review such invoices and approve them within 30 calendar days with such modifications as are consistent with this Agreement and forward same to the Auditor for processing. County shall pay each such approved invoice within thirty (30) calendar days. County reserves the right to withhold payment pending verification of satisfactory work performed.

Section 4. Modifications and Waivers

- A. The parties may not amend or waive this Agreement, except by a written agreement executed by both parties.
- B. No failure or delay in exercising any right or remedy or requiring the satisfaction of any condition under this Agreement, and no course of dealing between the parties, operates as a waiver or estoppel of any right, remedy, or condition.
- C. The rights and remedies of the parties set forth in this Agreement are not exclusive of, but are cumulative to, any rights or remedies now or subsequently existing at law, in equity, or by statute.

Section 5. Term and Termination

- A. This Agreement is effective upon execution of both Parties and shall terminate on March 31, 2017, unless sooner terminated by Party. This Agreement may be renewed annually for four (4) one year terms (through 31 March 2021) under the same terms and conditions if mutually agreeable to both parties.
- B. Termination for Convenience: County may terminate this Agreement at any time upon thirty (30) days written notice.
- C. Termination for Default
1. County may terminate the whole or any part of this Agreement for cause in the following circumstances:
 - a. If Contractor fails to perform services within the time specified in the Scope of Services or any extension thereof granted by the County in writing;
 - b. If Contractor materially breaches any of the covenants or terms and conditions set forth in this Agreement or fails to perform any of the other provisions of this Agreement or so fails to make progress as to endanger performance of this Agreement in accordance with its terms, and in any of these circumstances does not cure such breach or failure to County's reasonable satisfaction within a period of ten (10) calendar days after receipt of notice from County specifying such breach or failure.
 2. If, after termination, it is determined for any reason whatsoever that Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the County in accordance with Section 7A above.
- D. Upon termination of this Agreement, County shall compensate Contractor in accordance with Section 3, above, for those services which were provided under this Agreement prior to its termination and which have not been previously invoiced to County. Contractor's final invoice for said services will be presented to and paid by County in the same manner set forth in Section 3 above.
- E. If County terminates this Agreement as provided in this Section, no fees of any type, other than fees due and payable at the Termination Date, shall thereafter be paid to Contractor.

Section 6. Ownership and Reuse of Documents

All documents, data, reports, research, graphic presentation materials, etc., developed by Contractor as a part of its work under this Agreement, shall become the property of County upon completion of this Agreement, or in the event of termination or cancellation thereof, at the time of payment under Section 3 for work performed. Contractor shall promptly furnish all such data and material to County on request.

Section 7. Inspection of Books and Records

Contractor will permit County, or any duly authorized agent of County, to inspect and examine the books and records of Contractor for the purpose of verifying the amount of work performed under the Scope of Services and as described in the Federal Clauses Section of this Agreement. County's right to inspect under this Section survives the termination of this Agreement for a period of four years, unless a longer time is required under the Federal Clauses Section.

Section 8. Insurance

- A. Prior to commencement of the Services, Contractor shall furnish County with properly executed certificates of insurance which shall evidence all insurance required and provide that such Insurance shall not be canceled, except on 30 days' prior written notice to County. Contractor shall provide certified copies of insurance endorsements and/or policies if requested by County. Contractor shall maintain such insurance coverage from the time Services commence until Services are completed and provide replacement certificates, policies and/or endorsements for any such insurance expiring prior to completion of Services. Contractor shall obtain such insurance written on an Occurrence form from such companies having Bests rating of A/VII or better, licensed or approved to transact business in the State of Texas, and shall obtain such insurance of the following types and minimum limits:
1. Employers' Liability insurance with limits of not less than \$1,000,000 per injury by accident, \$1,000,000 per injury by disease, and \$1,000,000 per bodily injury by disease.
 2. Commercial general liability insurance with a limit of not less than \$1,000,000 each occurrence and \$2,000,000 in the annual aggregate. Policy shall cover liability for bodily injury, personal injury, and property damage and products/completed operations arising out of the business operations of the policyholder.
 3. Business Automobile Liability coverage applying to owned, non-owned and hired automobiles with limits not less than \$1,000,000 each occurrence combined single limit for Bodily Injury and Property Damage combined.

4. Auctioneer Professional Liability insurance with limits of \$500,000.

- B. County and the members of Commissioners Court shall be named as additional insured to all required coverage. All Liability policies written on behalf of Contractor shall contain a waiver of subrogation in favor of County and members of Commissioners Court.
- C. If required coverage is written on a claims-made basis, Contractor warrants that any retroactive date applicable to coverage under the policy precedes the effective date of the Contract and that continuous coverage will be maintained or an extended discovery period will be exercised for a period of 2 years beginning from the time the work under this Contract is completed.
- D. Contractor shall not commence any portion of the work under this Contract until it has obtained the insurance required herein and certificates of such insurance have been filed with and approved by Fort Bend County.
- E. No cancellation of or changes to the certificates, or the policies, may be made without thirty (30) days prior, written notification to Fort Bend County.
- F. Approval of the insurance by Fort Bend County shall not relieve or decrease the liability of the Contractor.

Section 9. Indemnity

- A. CONTRACTOR SHALL INDEMNIFY AND DEFEND COUNTY AGAINST ALL LOSSES, LIABILITIES, CLAIMS, CAUSES OF ACTION, AND OTHER EXPENSES, INCLUDING REASONABLE ATTORNEYS FEES, ARISING FROM ACTIVITIES OF CONTRACTOR, ITS AGENTS, SERVANTS OR EMPLOYEES, PERFORMED UNDER THIS AGREEMENT THAT RESULT FROM THE NEGLIGENT ACT, ERROR, OR OMISSION OF CONTRACTOR OR ANY OF CONTRACTOR'S AGENTS, SERVANTS OR EMPLOYEES.
- B. Contractor shall timely report all such matters to County and shall, upon the receipt of any such claim, demand, suit, action, proceeding, lien or judgment, not later than the fifteenth day of each month; provide County with a written report on each such matter, setting forth the status of each matter, the schedule or planned proceedings with respect to each matter and the cooperation or assistance, if any, of County required by Contractor in the defense of each matter.
- C. Contractor's duty to defend, indemnify and hold County harmless shall be absolute. It shall not abate or end by reason of the expiration or termination of this Agreement unless otherwise agreed by County in writing. The provisions of this section shall survive the termination of the Contract and shall remain in full force and effect with respect to all such matters no matter when they arise.

- D. In the event of any dispute between the parties as to whether a claim, demand, suit, action, proceeding, lien or judgment appears to have been caused by or appears to have arisen out of or in connection with acts or omissions of Contractor, Contractor shall never-the-less fully defend such claim, demand, suit, action, proceeding, lien or judgment until and unless there is a determination by a court of competent jurisdiction that the acts and omissions of Contractor are not at issue in the matter.
- E. Contractor's indemnification shall cover, and Contractor agrees to indemnify County, in the event Fort Bend County is found to have been negligent for having selected Contractor to perform the work described in this Agreement.
- F. The provision by Contractor of insurance shall not limit the liability of Contractor under this Agreement.
- G. Contractor shall cause all trade contractors and any other contractor who may have a contract to perform construction or installation work in the area where work will be performed under this Contract, to agree to indemnify County and to hold it harmless from all claims for bodily injury and property damage that may arise from said Contractor's operations. Such provisions shall be in form satisfactory to Fort Bend County.
- H. Loss Deduction Clause - County shall be exempt from, and in no way liable, for, any sums of money, which may represent a deductible in any insurance policy. The payment of deductibles shall be the sole responsibility of Contractor and/or Trade Contractor providing such insurance.

Section 10. Confidential and Proprietary Information

- A. Contractor acknowledges that it and its employees or agents may, in the course of performing their responsibilities under this Agreement, be exposed to or acquire information that is confidential to County. Any and all information of any form obtained by Contractor or its employees or agents from County in the performance of this Agreement shall be deemed to be confidential information of County ("Confidential Information"). Any reports or other documents or items (including software) that result from the use of the Confidential Information by Contractor shall be treated with respect to confidentiality in the same manner as the Confidential Information. Confidential Information shall be deemed not to include information that (a) is or becomes (other than by disclosure by Contractor) publicly known or is contained in a publicly available document; (b) is rightfully in Contractor's possession without the obligation of nondisclosure prior to the time of its disclosure under this Agreement; or (c) is independently developed by employees or agents of Contractor who can be shown to have had no access to the Confidential Information.
- B. Contractor agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Contractor uses in maintaining the confidentiality of its

own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever other than the provision of Services to County hereunder, and to advise each of its employees and agents of their obligations to keep Confidential Information confidential. Contractor shall use its best efforts to assist County in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limitation of the foregoing, Contractor shall advise County immediately in the event Contractor learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Agreement and Contractor will at its expense cooperate with County in seeking injunctive or other equitable relief in the name of County or Contractor against any such person. Contractor agrees that, except as directed by County, Contractor will not at any time during or after the term of this Agreement disclose, directly or indirectly, any Confidential Information to any person, and that upon termination of this Agreement or at County's request, Contractor will promptly turn over to County all documents, papers, and other matter in Contractor's possession which embody Confidential Information.

- C. Contractor acknowledges that a breach of this Section, including disclosure of any Confidential Information, or disclosure of other information that, at law or in equity, ought to remain confidential, will give rise to irreparable injury to County that is inadequately compensable in damages. Accordingly, County may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. Contractor acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interest of County and are reasonable in scope and content.
- D. Contractor in providing all services hereunder agrees to abide by the provisions of any applicable Federal or State Data Privacy Act.
- E. Contractor expressly acknowledges that County is subject to the Texas Public Information Act, TEX. GOV'T CODE ANN. §§ 552.001 et seq., as amended, and notwithstanding any provision in the Agreement to the contrary, County will make any information related to the Agreement, or otherwise, available to third parties in accordance with the Texas Public Information Act. Any proprietary or confidential information marked as such provided to County by Consultant shall not be disclosed to any third party, except as directed by the Texas Attorney General in response to a request for such under the Texas Public Information Act, which provides for notice to the owner of such marked information and the opportunity for the owner of such information to notify the Attorney General of the reasons why such information should not be disclosed. The terms and conditions of the Agreement are not proprietary or confidential information.

Section 11. Independent Contractor

- A. In the performance of work or services hereunder, Contractor shall be deemed an independent contractor, and any of its agents, employees, officers, or volunteers performing work required hereunder shall be deemed solely as employees of contractor or, where permitted, of its subcontractors.
- B. Contractor and its agents, employees, officers, or volunteers shall not, by performing work pursuant to this Agreement, be deemed to be employees, agents, or servants of County and shall not be entitled to any of the privileges or benefits of County employment.

Section 12. Notices

- A. Each party giving any notice or making any request, demand, or other communication (each, a "Notice") pursuant to this Agreement shall do so in writing and shall use one of the following methods of delivery, each of which, for purposes of this Agreement, is a writing: personal delivery, registered or certified mail (in each case, return receipt requested and postage prepaid), or nationally recognized overnight courier (with all fees prepaid).
- B. Each party giving a Notice shall address the Notice to the receiving party at the address listed below or to another address designated by a party in a Notice pursuant to this Section:

County:

Fort Bend County
Attn: Purchasing Agent
301 Jackson. Ste. Suite 201
Richmond, Texas 77469

w/copy to:

Fort Bend County
Attn: County Judge
401 Jackson Street
Richmond, Texas 77469

Contractor:

Lemons Auctioneers, LLP

18810 Juergen Road
Tomball, TX 77377

C. Notice is effective only if the party giving or making the Notice has complied with subsections 12(A) and 12(B) and if the addressee has received the Notice. A Notice is deemed received as follows:

1. If the Notice is delivered in person, or sent by registered or certified mail or a nationally recognized overnight courier, upon receipt as indicated by the date on the signed receipt.
2. If the addressee rejects or otherwise refuses to accept the Notice, or if the Notice cannot be delivered because of a change in address for which no Notice was given, then upon the rejection, refusal, or inability to deliver.

Section 13. Compliance with Laws

Contractor shall comply with all federal, state, and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any matter affecting the performance of this Agreement, including, without limitation, Worker's Compensation laws, minimum and maximum salary and wage statutes and regulations, licensing laws and regulations. When required by County, Contractor shall furnish County with certification of compliance with said laws, statutes, ordinances, rules, regulations, orders, and decrees above specified.

Section 14. Performance Warranty

- A. Contractor warrants to County that Contractor has the skill and knowledge ordinarily possessed by well-informed members of its trade or profession practicing in the greater Houston metropolitan area and Contractor will apply that skill and knowledge with care and diligence to ensure that the Services provided hereunder will be performed and delivered in accordance with the highest professional standards.
- B. Contractor warrants to County that the Services will be free from material errors and will materially conform to all requirements and specifications contained in the attached Exhibits.

Section 15. Assignment and Delegation

- A. Neither party may assign any of its rights under this Agreement, except with the prior written consent of the other party. That party shall not unreasonably withhold its consent. All assignments of rights are prohibited under this subsection, whether they are voluntarily or involuntarily, by merger, consolidation, dissolution, operation of law, or any other manner.

- B. Neither party may delegate any performance under this Agreement.
- C. Any purported assignment of rights or delegation of performance in violation of this Section is void.

Section 16. Applicable Law

The laws of the State of Texas govern all disputes arising out of or relating to this Agreement. The parties hereto acknowledge that venue is proper in Fort Bend County, Texas, for all legal actions or proceedings arising out of or relating to this Agreement and waive the right to sue or be sued elsewhere. Nothing in the Agreement shall be construed to waive the County's sovereign immunity.

Section 17. Successors and Assigns

County and Contractor bind themselves and their successors, executors, administrators and assigns to the other party of this Agreement and to the successors, executors, administrators and assigns of the other party, in respect to all covenants of this Agreement.

Section 18. FEDERAL CLAUSES WHEN SELLING ANY PUBLIC TRANSPORTATION ASSETS:

- A. **No Government Obligation to Third Parties.** Fort Bend County and the Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to Fort Bend County, the Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract. The Contractor agrees to include this clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.
- B. **Program Fraud and False or Fraudulent Statement and Related Acts.** The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil

Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.

The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

- C. **Access to Records and Reports.** The Contractor agrees to provide Fort Bend County, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor also agrees, pursuant to 49 C.F.R. 633.17 to provide the FTA Administrator or his authorized representatives including any PMO Contractor access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

The Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until Fort Bend County, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto.

- D. **Federal Changes.** The Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between Fort Bend County and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

E. Civil Rights Requirements. The following requirements apply to the underlying contract:

1. **Nondiscrimination** - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
2. **Equal Employment Opportunity** - The following equal employment opportunity requirements apply to the underlying contract:
 3. **Race, Color, Creed, National Origin, Sex** - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
 4. **Age** - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

5. Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

- F. **Incorporation of Federal Transit Administration (FTA) Terms.** The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1E, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any Fort Bend County requests which would cause Fort Bend County to be in violation of the FTA terms and conditions.
- G. **Energy Conservation Requirements.** The Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.
- H. **Government-Wide Debarment and Suspension (Non-Procurement).** This contract is a covered transaction for purposes of 49 CFR Part 29. As such, the Contractor is required to verify that none of the Contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The Contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by Fort Bend County. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to Fort Bend County, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees

to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

- I. **Dispute Resolution.** The parties shall attempt in good faith to resolve promptly any dispute arising out of or relating to this Agreement by negotiation between the parties. In the event the dispute cannot be settled through negotiation, the parties agree to submit the dispute to mediation.

The party requesting mediation shall notify the other party in writing of the dispute desired to be mediated. If the parties are unable to resolve their differences within ten (10) days of the receipt of such notice, such dispute shall be submitted for mediation.

Each party shall be responsible for its own costs associated with the mediation.

The requirement to seek mediation shall be a condition required before filing an action at law or in equity, unless to do so would prevent either party from seeking relief in a court of law or equity under any applicable statute of limitations.

- J. **Lobbying.** Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

- K. **Clean Air.** The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

- L. **Clean Water.** The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

- M. **Disadvantaged Business Enterprise (DBE).** This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. A separate contract goal has not been established for this procurement.

The Contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted contract. Failure by the Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as Fort Bend County deems appropriate. Each subcontract the Contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).

The successful bidder/offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.

The Contractor is required to pay its subcontractors performing work related to this Contract for satisfactory performance of that work no later than 30 days after the Contractor's receipt of payment for that work from Fort Bend County. In addition, the Contractor is required to return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this Contract is satisfactorily completed.

The Contractor must promptly notify Fort Bend County whenever a DBE subcontractor performing work related to this Contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The Contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without the prior written consent of Fort Bend County.

Section 19. Severability

If any provision of this Agreement is determined to be invalid, illegal, or unenforceable, the remaining provisions remain in full force, if the essential terms and conditions of this Agreement for each party remain valid, binding, and enforceable.

Section 20. Publicity

Contact with citizens of Fort Bend County, media outlets, or governmental agencies shall be the sole responsibility of County. Under no circumstances whatsoever, shall Contractor release any material or information developed or received in the performance of the Services hereunder without the express written permission of County, except where required to do so by law.

Section 21. Captions

The section captions used in this Agreement are for convenience of reference only and do not affect the interpretation or construction of this Agreement.

Section 22. Entire Agreement

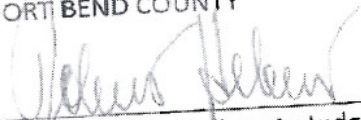
This Agreement contains the entire Agreement among the parties and supercedes all other negotiations and agreements, whether written or oral. Attached hereto is Exhibit A: RFP 16-082 and Exhibit B: Scope of Work, both of which are incorporated by reference as if set forth herein verbatim for all purposes. References to any other Agreement or document relating to same not named in this Section titled "Entire Agreement: and attached to this Agreement are hereby struck and deleted from the agreed upon terms between the Parties.

Section 23. Conflict

In the event there is a conflict between this Agreement and any attached exhibit, this Agreement controls. In the event there is conflict between the Exhibits, Exhibit A: RFP 16-02 shall prevail over Exhibit B: Scope of Work with regard to the conflict.

IN WITNESS WHEREOF, the parties hereto have signed or have caused their respective names to be signed to multiple counterparts to be effective on the 13 day of September, 2016.

FORT BEND COUNTY


Robert E. Hebert, County Judge

LEMONS AUCTIONEERS, LLP

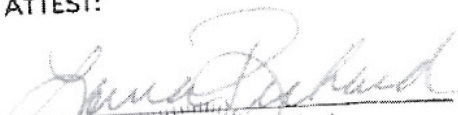

Authorized Agent- Signature

Lori Lemons Campbell
Authorized Agent- Printed Name

Co Owner / General Manager
Title

9/1/2016
Date

ATTEST:


Laura Richardson, County Clerk



AUDITOR'S CERTIFICATE

I hereby certify that funds are available in the amount of \$60,000.00 to accomplish and pay the obligation of Fort Bend County under this contract.



Robert Ed Sturdivant, County Auditor

Exhibit A: RFP 16-082

Exhibit B: Scope of Work

i:\agreements\2016 agreements\purchasing\rfp 16-082 auction services\auction services agreement 08.18.16.docx mtr

Exhibit A:
RFP 16-082

Fort Bend County Specification Download Acknowledgment



Request for Proposals

***Auctioneer Services for County and Public Transportation Assets
for Fort Bend County
RFP 16-082***

VENDORS MUST IMMEDIATELY RETURN THIS FORM BY FAX TO 281-341-8645

Vendor Responsibilities:

- Vendors are responsible to download and complete any addendums.
(Addendums will be posted on the Fort Bend County Website no later than 48 hours prior to Opening)
- Vendors will submit responses in accordance with requirements stated on cover of document.
- Vendors may not submit responses via email or fax.

Legal Name of Contracting Company

Contact Person

Complete Mailing Address

Telephone Number

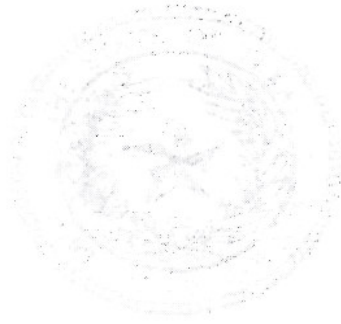
Facsimile Number

Email Address

Signature

Date

**Fort Bend County, Texas
Request for Proposals**



**Auctioneer Services for County and Public Transportation Assets
for Fort Bend County
RFP 16-082**

SUBMIT PROPOSALS TO:

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

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

SUBMIT NO LATER THAN:

Thursday, May 26, 2016
1:30 PM (Central)

MARK ENVELOPE:

RFP 16-082
Auctioneer Services

ALL RFPs MUST BE RECEIVED IN COUNTY PURCHASING OFFICE
BEFORE RECEIVING DATE AND TIME SPECIFIED.
NAMES OF ALL RFPs RECEIVED WILL THEN BE READ.
RFPs RECEIVED AFTER THE SPECIFIED TIME WILL BE RETURNED
UNOPENED.

Results will not be given by phone.
Results will be provided after final agreement
is approved by Commissioners Court.

Fort Bend County is always conscious
and extremely appreciative of your effort
in the preparation of this RFP. Requests for
information must be in writing and directed
to:

Debbie Kaminski, CPPB
Assistant County Purchasing Agent
Debbie.Kaminski@fortbendcountytx.gov

Prepared: 03/31/2016
Issued: 05/11/2016

Respondent Information

Legal Name of Contracting Company

Federal ID Number (Company or Corporation) or Social Security Number (Individual)

Telephone Number

Facsimile Number

Complete Mailing Address (for Correspondence)

City, State and Zip Code

Complete Remittance Address (if different from above)

City, State and Zip Code

Authorized Representative and Title (printed)

Authorized Representative's Email Address

Signature of Authorized Representative

1.0 SCOPE OF WORK:

Contract with one (1) professional auctioneer firm to conduct auctioneer services for the disposal of County and Public Transportation surplus property and equipment.

2.0 PROPOSAL SUBMISSION:

2.1 Questions:

Questions concerning this RFP must be submitted in writing to Ms Debbie Kaminski, CPPB, County Purchasing Agent, 301 Jackson, Suite 201, Richmond, Texas 77469, Debbie.Kaminski@fortbendcountytexas.gov. Responses to questions will be issued in writing only, verbal questions and responses will not be considered. Deadline for submission of questions and/or clarification is **Friday, May 20, 2016 at 10:00AM (CST)**. Requests received after the deadline will not be responded to due to the time constraints of this Proposal process.

2.2 When submitting a proposal in response to this request the following are required:

- 2.2.1 **One (1) original, six (6) copies and one (1) electronic response on CD or flash drive. CD or flash drive must contain only one (1) file in PDF format and must match written response identically. Failure to provide proper CD or flash drive is cause for disqualification.**
- 2.2.2 Insure that this RFP is included in your proposal and that all the information requested on the cover of this RFP is completed.
- 2.2.3 Provide a title page showing the RFP subject, name of Respondent, address, telephone number, fax number and email address. The title page must be signed by an officer of the firm.
- 2.2.4 Provide all required elements as stated.

2.3 Proprietary Information:

If a proposal includes any proprietary data or information that the respondent does not want disclosed to the public, such data or information must be clearly identified on every page on which it is found. Data or information so identified will be used by Fort Bend County officials and representatives solely for the purpose of evaluating proposals and conducting contract negotiations.

2.4 Cost of Proposal Preparation:

The cost of preparing a response to this RFP is not reimbursable to respondent or selected provider.

2.5 Modification or Withdrawal of Proposals:

Any proposal may be withdrawn or modified by written request of the respondent prior to the deadline for submission. Modifications received after the submission deadline will not be considered. No proposal may be withdrawn for a period of 60 calendar days after opening without permission of Fort Bend County. Respondents will be accorded fair and equal treatment with respect to any opportunity for discussion and revision. Revisions will be permitted after submission and before final contract award for the purpose of obtaining the best and final offer.

2.6 Preparation of Proposal:

Proposals must be in correct format and complete. Respondents are expected to address all items in as much detail as necessary for Fort Bend County representatives to make a fair evaluation of the company and the proposal.

2.7 Confidentiality of Proposals:

Proposals will be opened on the date specified on the cover page and kept secret during the process of negotiations. Only the names of the respondents will be made public at time of opening. All proposals that have been submitted shall be open for public inspection only after final contract award, subject to the requirements of the Public Information Act.

2.8 Contract Award:

Fort Bend County Commissioners Court will award the contract to the responsible company(s) who has been determined to be the best evaluated offer resulting from negotiations. Fort Bend County reserves the right to reject any or all proposals and is not obligated to award a contract pursuant to this request for proposals. Final contract may be awarded to one (1) firm or multiple firms.

2.9 Exceptions RFP:

Any and all exceptions, conditions or qualifications to the provisions contained herein must be clearly identified as such together with reasons for taking exception, and inserted in the proposal along with associated costs.

3.0 PROPOSAL CONTACT:

This Proposal is being issued by the County Purchasing Agent on behalf of Fort Bend County, Texas. Thus, responses should be directed to the Purchasing Agent, as outlined below. Respondents are specifically directed NOT to contact any County personnel for meetings, conferences or technical discussions that are related to this Proposal other than specified herein. Unauthorized contact of any County personnel will likely be cause for rejection of the Respondent's proposal. All

Contract. Failure to provide current insurance certificate or notarized statement will result in disqualification of submittal.

- 5.2 The certificates of insurance to be satisfactory to Fort Bend County, naming the Contractor and its employees as insured:
- 5.2.1 Employers' Liability insurance with limits of not less than \$1,000,000 per injury by accident, \$1,000,000 per injury by disease, and \$1,000,000 per bodily injury by disease.
 - 5.2.2 Commercial general liability insurance with a limit of not less than \$1,000,000 each occurrence and \$2,000,000 in the annual aggregate. Policy shall cover liability for bodily injury, personal injury, and property damage and products/completed operations arising out of the business operations of the policyholder.
 - 5.2.3 Business Automobile Liability coverage applying to owned, non-owned and hired automobiles with limits not less than \$1,000,000 each occurrence combined single limit for Bodily Injury and Property Damage combined.
 - 5.2.4 Auctioneer Professional Liability insurance with limits of \$500,000.
- 5.3 County and the members of Commissioners Court shall be named as additional insured to all required coverage except for Workers' Compensation and Professional Liability (if required). All Liability policies written on behalf of Contractor shall contain a waiver of subrogation in favor of County and members of Commissioners Court.
- 5.4 If required coverage is written on a claims-made basis, Contractor warrants that any retroactive date applicable to coverage under the policy precedes the effective date of the Contract and that continuous coverage will be maintained or an extended discovery period will be exercised for a period of 2 years beginning from the time the work under this Contract is completed.
- 5.5 Contractor shall not commence any portion of the work under this Contract until it has obtained the insurance required herein and certificates of such insurance have been filed with and approved by Fort Bend County.
- 5.6 No cancellation of or changes to the certificates, or the policies, may be made without sixty (60) days prior, written notification to Fort Bend County.
- 5.7 Approval of the insurance by Fort Bend County shall not relieve or decrease the liability of the Contractor.

6.0 INDEMNIFICATION:

Respondent shall save harmless County from and against all claims, liability, and expenses, including reasonable attorney's fees, arising from activities of respondent, its agents, servants or employees, performed under this agreement that result from the negligent act, error, or omission of respondent or any of respondent's agents, servants or employees.

- 6.1 Contractor shall timely report all such matters to Fort Bend County and shall, upon the receipt of any such claim, demand, suit, action, proceeding, lien or judgment, not later than the fifteenth day of each month; provide Fort Bend County with a written report on each such matter, setting forth the status of each matter, the schedule or planned proceedings with respect to each matter and the cooperation or assistance, if any, of Fort Bend County required by Contractor in the defense of each matter.
- 6.2 Contractor's duty to defend, indemnify and hold Fort Bend County harmless shall be absolute. It shall not abate or end by reason of the expiration or termination of this Contract unless otherwise agreed by Fort Bend County in writing. The provisions of this section shall survive the termination of the Contract and shall remain in full force and effect with respect to all such matters no matter when they arise.
- 6.3 In the event of any dispute between the parties as to whether a claim, demand, suit, action, proceeding, lien or judgment appears to have been caused by or appears to have arisen out of or in connection with acts or omissions of Contractor, Contractor shall never-the-less fully defend such claim, demand, suit, action, proceeding, lien or judgment until and unless there is a determination by a court of competent jurisdiction that the acts and omissions of Contractor are not at issue in the matter.
- 6.4 Contractor's indemnification shall cover, and Contractor agrees to indemnify Fort Bend County, in the event Fort Bend County is found to have been negligent for having selected Contractor to perform the work described in this Contract.
- 6.5 The provision by Contractor of insurance shall not limit the liability of Contractor under this Contract.
- 6.6 Contractor shall cause all trade contractors and any other contractor who may have a contract to perform construction or installation work in the area where work will be performed under this Contract, to agree to indemnify Fort Bend County and to hold it harmless from all claims for bodily injury and property damage that may arise from said Contractor's operations. Such provisions shall be in form satisfactory to Fort Bend County.
- 6.7 Loss Deduction Clause - Fort Bend County shall be exempt from, and in no way liable, for, any sums of money, which may represent a deductible in any insurance policy. The payment of deductibles shall be the sole responsibility of Contractor and/or Trade Contractor providing such insurance.

7.0 TERM:

This contract is for the period ending **31 March 2017**, renewable annually for four (4) years (through 31 March 2021) under the terms and conditions if mutually agreeable to both parties. Either party for any reason may terminate this contract by giving thirty (30) days written notice of the intent to terminate.

8.0 PRE-AUCTION ACTIVITIES:

8.1 Technical Requirements:

- 8.1.1 Respondent must be a licensed auctioneer in the State of Texas.
- 8.1.2 Respondent must be experienced and adept at conducting public auctions utilizing Respondent's furnished equipment.
- 8.1.3 Respondent must be experienced at utilizing a variety of auctioneering methods to conduct auctions including online auctions.
- 8.1.4 Respondent must not buy directly or indirectly from any auction that he/she is conducting for Fort Bend County.
- 8.1.5 Respondent will not be compensated for unconsummated sales.
- 8.1.6 Respondent to conduct public auction without minimum or reserve, buyer's premium, bid-ins or buy backs.
- 8.1.7 Respondent required to conduct auctions for equipment that will be sold as "conditional sales".

8.2 Work Requirements:

- 8.2.1 Respondent must recommend the auction method that is best suited for the type of property being sold.
- 8.2.2 Respondent may recommend any method deemed necessary to accomplish the goal of obtaining a fair return of value, to include but not limited to, live/public auction, online/internet reserve pricing auction, and/or simulcast bidding.
- 8.2.3 Fort Bend County reserves the right to reject the recommended method and require a specific method whenever deemed necessary.
- 8.2.4 Respondent must provide all labor, equipment and supplies necessary to

prepare for and conduct each auction.

8.2.5 Fort Bend County reserves the right to select the location of all auctions.

8.3 Advertising:

8.3.1 Prior to each sale, the Respondent shall advertise the auction event.

8.3.2 All advertising must be approved by Fort Bend County.

8.3.3 Respondent must advertise the sale in at least the following ways:

8.3.3.1 Brochure. Respondent must print a minimum of 1,000 two-colored sales brochures fourteen (14) calendar days prior to the auction. Of which 100 are to be given to the Fort Bend County Purchasing Department and remainder mailed to your clients. Brochure to contain at a minimum the auction location, date, time, terms and conditions, and pictures of items being sold.

8.3.3.2 Newspaper. Respondent must advertise at a minimum in the Houston Chronicle, Fort Bend Herald, Southwest Star and Fort Bend Independent newspapers once a week for two (2) weeks prior to the auction.

8.3.3.3 Websites. Respondent must post the auction notice on his/her own company's website as well as the Houston Chronicle website. Fort Bend County will post on the county's website.

8.3.3.4 Respondent must recommend and conduct an appropriate advertising process for sales that will be conducted entirely online.

9.0 EXECUTION OF AUCTION:

9.1 Setup/Display:

9.1.1 Fort Bend County shall organize all items to be sold.

9.1.2 Respondent must lot all items to be sold.

9.1.3 Respondent must provide and apply "As-Is Where Is" form on each vehicle in the sale.

9.1.4 Respondent must be available during scheduled viewing times and during auction to assist with any questions or request for information raised by auction attendees.

9.2 Labor:

9.2.1 Respondent must ensure that all attendees are registered and receive a copy of the terms and conditions of sale.

- 9.2.2 Respondent must make sure all forms are turned in by attendees when registering (example: Texas Sales & Use Tax Resale Certificate and the Bank Letter of Guarantee)
- 9.2.3 Respondent must settle any disputes which may arise among the buyers, or between a buyer, and County, which pertain to a lot or lots purchased.
- 9.2.4 Respondent must provide Auction Status/Sales Activity/Auction Summary (Grand Totals in addition to itemized details for all items sold including Commission).
- 9.2.5 Respondent must register buyer report for purchasers/for all attendees (In sequential buyer number order).
- 9.2.6 Respondent must provide multiple reports with the required information included: buyer name, buyer number, lot number, invoice number, amount (with a total), vehicle identification number (VIN) and description.
- 9.2.5 Respondent to remit gross proceeds for the auction to the County upon completion of auction; except credit card receipts which are to be remitted within 72 hours of conclusion of the auction.
- 9.2.6 Fort Bend County will provide all security during auctions held on County property.
- 9.3 Sale:
 - 9.3.1 After the sale of any titled vehicles, Fort Bend County will furnish the title application form and take the necessary steps to release the title.
 - 9.3.2 Respondent to provide Sales Tax Report itemized sales tax report with summary for backup to support the Texas Sales and use Tax Return submitted to the Texas Comptroller of Public Accounts (No assessing convenience fees on sales tax)
 - 9.3.3 Respondent to provide Department Report/Seller Settlement by County Department.
 - 9.3.4 Respondent to provide Invoices (with sequential numbering system not the buyer/paddle number).
 - 9.3.5 Respondent must provide an official hard copy of the Terms and Conditions of the sale that is handed out to Auction attendees at time of registration.

9.4 Payment by the County to Auctioneer:

- 9.4.1 Upon completion of auction, Respondent will submit an official hard copy of the two-colored sales brochures and clear, concise invoice and proof of advertisements. (Section 8.3).
- 9.4.2 Attachment K, intent to perform as a DBE Contractor/DBE Subcontractor is required with the response if a DBE firm is the primary proposer or is to be utilized as a subcontractor by a primary proposer.
- 9.4.3 The County Auditor's Office will complete an analysis of the auction (i.e. check sales receipts, sales tax receipts, advertisement invoices, etc.) prior to payment authorization.

10.0 TENTATIVE SCHEDULE OF EVENTS:

Release of RFP: May 11, 2016
Deadline for Questions: May 20, 2016
Submission Due Date: May 26, 2016
Evaluation of Submissions: Week of June 7, 2016
Commissioners Court Permission to Negotiate: June 14, 2016
Negotiations: Begin June 15, 2016
Final Contract Approval Commissioners Court: July 5, 2016

11.0 EVALUATION CRITERIA:

In order to facilitate the analysis of responses to this Proposal, Respondents are required to prepare their proposals in accordance with the instructions outlined in this part. Proposals should be prepared as simply as possible and provide a straightforward, concise description of the Respondent's capabilities to satisfy the requirements of the Proposal. Emphasis should be concentrated on accuracy, completeness, and clarity of content. All parts, pages, figures, and tables should be numbered and clearly labeled.

11.1 Respondents are required to follow the outline below when preparing their proposals:

Tab	Title
	Title Page
	Table of Contents
	Executive Summary
1	Understanding Scope of Work
2	Firm Experience
3	Staff Experience
4	Staffing Level
5	Cost
6	Required forms

7 Appendix

- 11.2 Any exceptions to the Proposal requirements shall be identified in the applicable section.
- 11.3 Proposals shall be no more than 25 pages, single-sided using 12 point or greater font size, not including resumes. Each resume shall be 2 page maximum, single-sided using 12 point or greater font size. Proposal pages shall be numbered and bound, or in a 3-ring binder with the proposing Respondent's name clearly indicated on the cover.
- 11.4 Executive Summary - This section should be limited to a brief narrative highlighting the company's background and experience. Narrative should clearly demonstrate compliance with qualifications listed in the RFP specifications. Include length of time the company has been in business.
- 11.5 Respondents will be evaluated utilizing the factors, as weighted below:

Tab 1

Understanding Requirements (weight factor = 40%)

- Demonstrate how Respondent will accomplish all elements of requirements from pre-auction activities, to auction day activities. Include methodology that will be utilized to secure the highest dollar for the surplus property offered.

Tab 2

Firm Experience (weight factor = 30%)

- Provide proof of State of Texas auctioneer license.
- Provide a minimum of three (3) references of onsite auctions held in the past two (2) years. References to include the client's name, total gross sales, location of sale, contact name, phone and email address.

Tab 3

Fee (weight factor = 25%)

- Provide commission rate for online auctions and commission rate for onsite auctions. Rate is a turn-key rate to include all elements as stated in Section 8.0 and 9.0.

Tab 4

Overall completeness of submission (weight factor = 5%)

- Proof of insurance
- Required forms

12.0 EVALUATION PROCESS:

- 12.1 After the proposals are received, the evaluation team shall evaluate each proposal that was submitted on time, and the evaluation shall be based on the criteria listed in the proposal. Selection committee members will conduct a quantitative evaluation according to a numerical ranking system and a qualitative evaluation for over all proposal content and its conformance to requirements. The entire evaluation committee will then meet to discuss the strong and weak points of each proposal to assure that it has been evaluated fairly, impartially and comprehensively. Following this initial evaluation, the evaluation team may recommend contract award without further discussion with Respondents, or the firms submitting the top rated proposals may be asked to make an oral presentation to the evaluation team for the propose of further clarification and evaluation of the proposals.
- 12.2 If oral presentations are scheduled, the representatives of the firm who will be directly assigned to the account must be present at the interview. During the interview portion of the meeting, the evaluation team shall advise the Respondent of deficiencies in the proposal and shall allow the Respondent to satisfy the requirements, questions, or concerns by submitting a final offer. The Respondent may decide not to modify their proposal and may inform Fort Bend County that the offer is firm and final.
- 12.3 The evaluation team shall not disclose any information included in a firm's proposal to another firm during the RFP process and shall not disclose any information for the purpose of bringing one firm's proposal up to that of a competitor's proposal.
- 12.4 After final offers are received, the evaluation team shall reevaluate each of the final offers, including those deemed final at the interview. The final offers shall be evaluated on the same criteria used in the first evaluation.
- 12.5 Fort Bend County reserves the right to reject any and all proposals received for any reason that would be to the benefit of Fort Bend County.
- 12.6 All proposals submitted are to be valid for a period of ninety (90) days.

13.0 AWARD:

Proposals will be opened on the date specified on the cover page and kept secret until the Fort Bend County Commissioners Court awards a final negotiated contract. Only the names of the respondents will be read aloud during the opening. All proposals that have been submitted shall be open to public inspection after the contract award.

14.0 ADDITIONAL REQUIRED FORMS:

All vendors submitting are required to complete the attached and return with submission:

- 14.1 Vendor Form
- 14.2 W9 Form
- 14.3 Tax Form/Debt/Residence Certification
- 14.4 Contractor Acknowledgement of Stormwater Management Program
- 14.5 DBE Attachment K (see 9.4.2 above)
- 14.6 Attachment L – Vendor Payment Report (sample of report required with first and every invoice)
- 14.7 TxDOT Consolidated Certification Form PTN-130

15.0 FEDERAL CLAUSES WHEN SELLING ANY PUBLIC TRANSPORTATION ASSETS:

15.1 **No Government Obligation to Third Parties.** Fort Bend County and the Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to Fort Bend County, the Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract. The Contractor agrees to include this clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

15.2 **Program Fraud and False or Fraudulent Statement and Related Acts.** The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to

this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.

The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

- 15.3 **Access to Records and Reports.** The Contractor agrees to provide Fort Bend County, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor also agrees, pursuant to 49 C.F.R. 633.17 to provide the FTA Administrator or his authorized representatives including any PMO Contractor access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

The Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until Fort Bend County, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto.

- 15.4 **Federal Changes.** The Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between Fort Bend County and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.
- 15.5 **Civil Rights Requirements.** The following requirements apply to the underlying contract:
- 15.5.1 **Nondiscrimination** - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
- 15.5.2 **Equal Employment Opportunity** - The following equal employment opportunity requirements apply to the underlying contract:
- 15.5.2.1 **Race, Color, Creed, National Origin, Sex** - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
- 15.5.2.2 **Age** - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against

present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

15.5.2.3 Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

15.5.3 The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

15.6 **Incorporation of Federal Transit Administration (FTA) Terms.** The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1E, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any Fort Bend County requests which would cause Fort Bend County to be in violation of the FTA terms and conditions.

15.7 **Energy Conservation Requirements.** The Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

15.8 **Government-Wide Debarment and Suspension (Non-Procurement).** This contract is a covered transaction for purposes of 49 CFR Part 29. As such, the Contractor is required to verify that none of the Contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The Contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by Fort Bend County. If it is later determined that the bidder or proposer

knowingly rendered an erroneous certification, in addition to remedies available to Fort Bend County, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

- 15.9 **Dispute Resolution.** The parties shall attempt in good faith to resolve promptly any dispute arising out of or relating to this Agreement by negotiation between the parties. In the event the dispute cannot be settled through negotiation, the parties agree to submit the dispute to mediation.

The party requesting mediation shall notify the other party in writing of the dispute desired to be mediated. If the parties are unable to resolve their differences within ten (10) days of the receipt of such notice, such dispute shall be submitted for mediation.

Each party shall be responsible for its own costs associated with the mediation.

The requirement to seek mediation shall be a condition required before filing an action at law or in equity, unless to do so would prevent either party from seeking relief in a court of law or equity under any applicable statute of limitations.

- 15.10 **Lobbying.** Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

- 15.11 **Clean Air.** The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

- 15.12 **Clean Water.** The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

- 15.13 **Disadvantaged Business Enterprise (DBE).** This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, *Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs*. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. A separate contract goal has not been established for this procurement.

The Contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted contract. Failure by the Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as Fort Bend County deems appropriate. Each subcontract the Contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).

The successful bidder/offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.

The Contractor is required to pay its subcontractors performing work related to this Contract for satisfactory performance of that work no later than 30 days after the Contractor's receipt of payment for that work from Fort Bend County. In addition, the Contractor is required to return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this Contract is satisfactorily completed.

The Contractor must promptly notify Fort Bend County whenever a DBE subcontractor performing work related to this Contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The Contractor may not

Request for Taxpayer Identification Number and Certification

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

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.

2 Business name/disregarded entity name, if different from above

3 Check appropriate box for federal tax classification; check only one of the following seven boxes:

<input type="checkbox"/> Individual/sole proprietor or single-member LLC	<input type="checkbox"/> C Corporation	<input type="checkbox"/> S Corporation	<input type="checkbox"/> Partnership	<input type="checkbox"/> Trust/estate
--	--	--	--------------------------------------	---------------------------------------

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):
Exempt payee code (if any): _____
Exemption from FATCA reporting code (if any): _____
(Applies to accounts maintained outside the U.S.)

5 Address (number, street, and apt. or suite no.) _____

6 City, state, and ZIP code _____

7 List account number(s) here (optional) _____

8 Requester's name and address (optional) _____

Part I Taxpayer Identification Number (TIN)

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

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

Social security number								
OR								
Employer identification number								

Part II Certification

Under penalties of perjury, I certify that:

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

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

Sign Here	Signature of U.S. person	Date
-----------	--------------------------	------

General Instructions

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

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

Purpose of Form

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

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

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

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

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

By signing the filled-out form, you:

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

Form W-9 (Rev. 12-2014)

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

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

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

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

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

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

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

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

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

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

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

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

Backup Withholding

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

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

Payments you receive will be subject to backup withholding if:

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

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

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

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

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

Also see *Special rules for partnerships* above.

What is FATCA reporting?

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

Updating Your Information

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

Penalties

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

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

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

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

Specific Instructions

Line 1

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

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

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

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

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

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

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

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

Line 2

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

Line 3

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

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

Line 4, Exemptions

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

Exempt payee code.

• Generally, individuals (including sole proprietors) are not exempt from backup withholding.

• Except as provided below, corporations are exempt from backup withholding for certain payments, including interest and dividends.

• Corporations are not exempt from backup withholding for payments made in settlement of payment card or third party network transactions.

• Corporations are not exempt from backup withholding with respect to attorneys' fees or gross proceeds paid to attorneys, and corporations that provide medical or health care services are not exempt with respect to payments reportable on Form 1099-MISC.

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

1—An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(b)(2)

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

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

4—A foreign government or any of its political subdivisions, agencies, or instrumentalities

5—A corporation

6—A dealer in securities or commodities required to register in the United States, the District of Columbia, or a U.S. commonwealth or possession

7—A futures commission merchant registered with the Commodity Futures Trading Commission

8—A real estate investment trust

9—An entity registered at all times during the tax year under the Investment Company Act of 1940

10—A common trust fund operated by a bank under section 584(a)

11—A financial institution

12—A middleman known in the investment community as a nominee or custodian

13—A trust exempt from tax under section 664 or described in section 4947

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

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

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

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

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

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

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

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

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

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

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

G—A real estate investment trust

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

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

J—A bank as defined in section 581

K—A broker

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

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

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

Line 5

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

Line 6

Enter your city, state, and ZIP code.

Part I. Taxpayer Identification Number (TIN)

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

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

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

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

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

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

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

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

Part II. Certification

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

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

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

1. **Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983.** You must give your correct TIN, but you do not have to sign the certification.

2. **Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983.** You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

3. **Real estate transactions.** You must sign the certification. You may cross out item 2 of the certification.

4. **Other payments.** You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments made in settlement of payment card and third party network transactions, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

5. **Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions.** You must give your correct TIN, but you do not have to sign the certification.

What Name and Number To Give the Requester

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

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

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

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

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

⁵ Note. Grantor also must provide a Form W-9 to trustee of trust.

⁶ Note. If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

Secure Your Tax Records from Identity Theft

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

To reduce your risk:

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

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

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

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

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

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

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

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

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

Privacy Act Notice

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

Job No.: RFO

TAX FORM/DEBT/RESIDENCE CERTIFICATION
(for Advertised Projects)

Taxpayer Identification Number (T.I.N.): _____

Company Name submitting Bid/Proposal: _____

Mailing Address: _____

Are you registered to do business in the State of Texas? Yes No

If you are an individual, list the names and addresses of any partnership of which you are a general partner or any assumed name(s) under which you operate your business

- I. **Property:** List all taxable property in Fort Bend County owned by you or above partnerships as well as any d/b/a names. Include real and personal property as well as mineral interest accounts. (Use a second sheet of paper if necessary.)

<u>Fort Bend County Tax Acct. No.*</u>	<u>Property address or location**</u>
_____	_____
_____	_____
_____	_____
_____	_____

* This is the property account identification number assigned by the Fort Bend County Appraisal District.

** For real property, specify the property address or legal description. For business personal property, specify the address where the property is located. For example, office equipment will normally be at your office, but inventory may be stored at a warehouse or other location.

- II. **Fort Bend County Debt** - Do you owe any debts to Fort Bend County (taxes on properties listed in I above, tickets, fines, tolls, court judgments, etc.)?

Yes No If yes, attach a separate page explaining the debt.

- III. **Residence Certification** - Pursuant to Texas Government Code §2252.001 *et seq.*, as amended, Fort Bend County requests Residence Certification. §2252.001 *et seq.* of the Government Code provides some restrictions on the awarding of governmental contracts; pertinent provisions of §2252.001 are stated below:

(3) "Nonresident bidder" refers to a person who is not a resident.

(4) "Resident bidder" refers to a person whose principal place of business is in this state, including a contractor whose ultimate parent company or majority owner has its principal place of business in this state.

I certify that _____ is a Resident Bidder of Texas as defined in Government Code §2252.001.
[Company Name]

I certify that _____ is a Nonresident Bidder as defined in Government Code §2252.001 and our principal place of business is _____.
[Company Name] [City and State]

Mandatory Form



Contractor Acknowledgement of Stormwater Management Program

I hereby acknowledge that I am aware of the stormwater management program and standard operating procedures developed by Fort Bend County in compliance with the TPDES General Permit No. TXR040000. I agree to comply with all applicable best management practices and standard operating procedures while conducting my services for Fort Bend County. I agree to conduct all services in a manner that does not introduce illicit discharges of pollutants to streets, stormwater inlets, drainage ditches or any portion of the drainage system. The following materials and/or pollutant sources must not be discharged to the drainage system as a result of any services provided:

1. Grass clippings, leaves, mulch, rocks, sand, dirt or other waste materials resulting from landscaping activities, (except those materials resulting from ditch mowing or maintenance activities)
2. Herbicides, pesticides and/or fertilizers, (except those intended for aquatic use)
3. Detergents, fuels, solvents, oils and/or lubricants, other equipment and/or vehicle fluids,
4. Other hazardous materials including paints, thinners, chemicals or related waste materials,
5. Uncontrolled dewatering discharges, equipment and/or vehicle wash waters,
6. Sanitary waste, trash, debris, or other waste products
7. Wastewater from wet saw machinery,
8. Other pollutants that degrade water quality or pose a threat to human health or the environment.

Furthermore, I agree to notify Fort Bend County immediately of any issue caused by or identified by:

(Company/Contractor)

that is believed to be an immediate threat to human health or the environment.

Contractor Signature

Date

Printed Name

Title

FORT BEND COUNTY Subcontractor Participation

Instructions: The Offeror shall complete this form by listing 1) Names of all proposed subcontractors, 2) Contact information, 3) Description of work to be performed/product to be provided, 4) Status as a DBE or non-DBE, 5) Ethnic Code of firm 6) Age of the firm, 7) Annual gross receipts of the firm, 8) % or \$ amount of Total Contract. Those subcontractors which are listed on this form as DBEs must have current certification as a DBE with a participating TUCP certifying agency. The DBE certification must be complete by the time the proposals are submitted. Additionally, those subcontractors which are listed on this form as DBEs must complete an Intent to Perform as a DBE Subcontractor agreeing to the information listed here.

Name of Prime Contractor (Offeror): _____

Project Name: _____

IFB/RFP/SOQ Number: _____

Ethnic Code. A) African-American Male B) African American Female C) Asian- Indian Male
D) Asian- Indian Female E) Asian -Pacific Male G) Asian-Pacific Female H) Hispanic Male
I) Hispanic Female J) Native American Male K) Native American Female L) White Female M) Other

1) Name of Subcontractor	2) Address, Telephone # of DBE Firm (Including name of contact person)	3) Description of Work, Services Provided. Where applicable, specify "supply" or "install" or both.	4) DBE or non- DBE	5) Ethnic Code	6) Age of Firm	7) Annual Gross Receipts	8) DBE % or \$ amount of Total Contract

This schedule must be completed as instructed above and include every subcontractor proposed on this project.

The undersigned will enter into a formal agreement with DBE contractors for work listed in this schedule upon execution of a contract with Fort Bend County Public Transportation. The contractor agrees to the terms of this schedule by signing below and submitting the Intent to Perform as completed by the DBE subcontractors. The contractor also certifies that no more than 70% of the work for this project will be subcontracted.

Signature of Authorized Representative of Offeror

Date Signed

FORT BEND COUNTY
Intent to Perform as a DBE Contractor/DBE Subcontractor
IFB/RFP/SOQ # _____

(Note: In accordance with 49 CFR (Code of Federal Regulations) Part 26 and Board policy, DBE firms participating in Fort Bend County's DBE Program must have "current" certification status with a TUCP Certifying Agency (see Attachment K) by the due date established for this IFB/RFP/SOQ.)

1. TO: (name of Offeror/Prime Contractor) _____
2. The undersigned is either currently certified under the Texas Unified Certification Program (TUCP) as a DBE or will be at the time this solicitation is due.
3. The undersigned is prepared to perform the following described work with their own workforce and/or supply the material listed in connection with the above project (where applicable specify "supply" or "install" or both)

_____ and at the following price \$ _____ and/or _____ % of the total contract amount (should be the same \$ or % found on Attachment K).

With respect to the proposed subcontract described above, the undersigned DBE anticipates that _____ % of the dollar value of this subcontract will be sublet and/or awarded to other contractors. Any and all subcontractors that a DBE subcontractor uses must be listed in Attachment K and must also be DBE certified. (The DBE subcontractor should complete this section only if the DBE is subcontracting any portion of its subcontract.)

(Name of DBE Firm)	(Signature of Authorized Representative)	(Phone Number)	(Date Signed)
(Name of Offeror/Prime Contractor)	(Signature of Authorized Representative)	(Phone Number)	(Date Signed)

Fort Bend County
Public Transit Department
DBELO
12550 Emily Court
Sugar Land, Texas 77478
(281) 633-7433
Fax (281) 243-6715

VENDOR PAYMENT REPORT

1. Contract Number	2. Invoice Number
	3. Reporting Period From: To:

**FAX FORM to FBC
Public Transit DBELO:
(281) 243-6715**

Instructions: All prime contractors are required to complete and submit this report as specified in the contract, or as requested, until final payment of the contract. Failure to comply with Fort Bend County's DBE provisions may result in contract termination, or the suspension or debarment of the contractor from doing business with Fort Bend County Public Transportation in the future in accordance with the procedures set forth in Fort Bend County's DBE Program. **This report must be submitted with each invoice.** Instructions for completing this report can be found on the following page.

4. Contractor's Business Name	5. Contact Person	6. Address	7. Telephone Number
8. Date of Contract Award	9. Schedule Date of Completion	10. Original Contract Amount	11. Current Contract Modifications
12. Total Amount Received to date	13. Total Amount Owed	14. Committed DBE %	15. Actual DBE Participation to date

16. Name of DBE Subcontractor	17. Description of Work	18. Amount & Date of payments made during current invoice period	19. Subcontract Dollars	20. Amount paid to date	21. % Paid to Date	22. Amount of this invoice allocated to subcontractor

By completing this form, the Contractor acknowledges Fort Bend County's prompt payment policy which requires the Contractor to pay all subcontractors within 10 days of receiving payment from Fort Bend County.

Company Official's Signature and Title	Date Signed	Name and Title of Individual Completing Report

FORT BEND COUNTY PUBLIC TRANSPORTATION INSTRUCTIONS FOR COMPLETING THE VENDOR PAYMENT REPORT SUBMITTAL

The Vendor Payment Report is to be filled out by the Contractor and submitted to DBE after invoicing Fort Bend County. Please follow the instructions below, which correspond to each item on the report.

- | | |
|--|--|
| <ol style="list-style-type: none"> 1. <u>Contract Number</u>
Fill in the Contract number assigned to your project by Fort Bend County 2. <u>Invoice Number</u>
Fill in the invoice number for this report 3. <u>Reporting Period</u>
This is to be filled in to state the period of time you are reporting. 4. <u>Contractor's Business Name</u>
Fill in your company's name 5. <u>Contact Person</u>
Fill in the first and last name of the person to contact 6. <u>Address</u>
Fill in your company's address 7. <u>Telephone Number</u>
Fill in your company's phone number 8. <u>Date of Contract Award</u>
Fill in the date the contract was executed by both you and Fort Bend County 9. <u>Schedule Date of Completion</u>
Fill in the completion date of the contract as written 10. <u>Original Contract Amount</u>
Fill in the dollar amount of the original contract agreed upon by you and Fort Bend County 11. <u>Current Contract Modifications</u>
Fill in the dollar amount of the original contract plus/minus the dollar amount agreed upon at the later date as a result of contract modifications, if applicable. Include date the modification was executed. 12. <u>Total Amount Received to Date</u>
Fill in the dollar amount you have received from Fort Bend County to date | <ol style="list-style-type: none"> 13. <u>Total Amount Owed</u>
Fill in the dollar amount of the contract minus the amount paid to you by Fort Bend County 14. <u>Committed DBE %</u>
Fill in the percentage of DBE participation you committed to obtain in the contract 15. <u>Actual DBE Participation to date</u>
Fill in the calculated dollar amount paid to the DBEs by the dollar amount you received from Fort Bend County 16. <u>Name of DBE subcontractor</u>
Name all DBE subcontractors (Use additional sheets of necessary) 17. <u>Description of Work</u>
State the work performed by the DBE subcontractor 18. <u>Amount & Date of payments made during current invoice period</u>
State the amount and date of last payment made to each DBE subcontractor. Submit evidence of payment, i.e. cancelled check, check register, etc. 19. <u>Subcontract Dollars</u>
State the committed dollar value to the DBE subcontractor to date 20. <u>Amount paid to date</u>
Add all amounts paid to each DBE subcontractor to date 21. <u>% Paid to Date</u>
State the dollar amount paid to the DBE subcontractor divided by the amount committed to them (Item 20 divided by Item 19) 22. <u>Amount of this invoice allocated to subcontractor</u>
Fill in how much of this invoice will be paid to each DBE subcontractor |
|--|--|



Consolidated Certification Form

Form PTN-130
(Rev. 03/16)
Page 1 of 6

I. FOR ALL BIDS:

The undersigned vendor certifies to abide by these clauses and include the following clauses in each subcontract financed in whole or in part with Federal Transit Administration (FTA) funds. Vendors are certifying by reference the entire list of FTA FY 2016 Certifications and Assurances, and shall download the same at:
http://www.fta.dot.gov/documents/2016_Certs_and_Assurances.pdf

A. Disadvantaged Business Enterprises (DBE) Certification

The vendor will provide products compliant with 49 CFR 26.49 regarding the vehicle manufacturer's overall DBE goal.

B. Access to Third Party Contract Records

As required by 49 U.S.C. § 5325(g). The VENDOR agrees provide sufficient access to records as needed to assure proper project management and compliance with Federal laws and regulations.

C. Interest of Members of or Delegates to Congress

The vendor certifies that no member of or delegate to the Congress of the United States (US) shall be admitted to any share or part of this contract or to any benefit arising therefrom.

D. Prohibited Interest

The vendor certifies that no member, officer or employee of the Public Body or of a local public body during his or her tenure or one year thereafter shall have any interest, direct or indirect, in this contract or the proceeds thereof.

E. Cargo Preference - Use of United States-Flag Vessels

The vendor agrees: a. to use privately owned US -Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material or commodities pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for US-Flag commercial vessels; b. to furnish within 20 working days following the date of loading for shipments originating within the US or within 30 working days following the date of loading for shipments originating outside the US, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the FTA recipient (through the contractor in the case of a subcontractor's bill-of-lading).

F. Energy Conservation

The vendor agrees to comply with mandatory standards and policies relating to energy efficiency, which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

G. No Obligation by the Federal Government

The Purchaser and vendor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the Purchaser, Contractor or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract).

H. Program Fraud and False or Fraudulent Statements or Related Acts

The vendor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. §3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this project. The vendor certifies truthfulness and accuracy of any statement it makes pertaining to the FTA-assisted project. The vendor acknowledges that if it makes, or causes to be made, a false, fictitious or fraudulent claim, statement, submission or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 as deemed appropriate. The vendor acknowledges that if it makes, or causes to be made, a false, fictitious or fraudulent claim, statement submission, or certification to the Federal Government relating to the FTA-assisted project, per 49 U.S.C. §5307, the Government reserves the right to impose the penalties of 18 U.S.C. §1001 and 49 U.S.C. §5307(n)(1) on the Contractor, as deemed appropriate.

I. Contract Work Hours

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

(2) **Violation; liability for unpaid wages; liquidated damages** - In the event of any violation of the clause set forth in paragraph (1) of this section, the contractor & any subcontractor responsible therefore shall be liable for unpaid wages and shall be liable to the United States for liquidated damages which shall be computed for each individual laborer, mechanic, watchman or guard employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day that an individual was required / permitted to work over 40 hours in a workweek without payment of overtime wages required by the clause in paragraph (1) of this section.

(3) **Withholding for unpaid wages and liquidated damages** - The purchaser shall upon its own action or upon written request of the Department of Labor (DOL) withhold or cause to be withheld, from any money payable for work performed by the contractor or subcontractor under any contract or other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as set forth in paragraph (2) of this section.

(4) **Subcontracts** - The contractor or subcontractor shall include the clauses set forth in this section and require the same from subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with these clauses.

(5) **Payrolls and basic records** - Payrolls and related basic records shall be maintained by the contractor during the course of the work and preserved for three years thereafter for all laborers and mechanics working at the work site (or under the United States Housing Act of 1937 or the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address and social security number of each worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records showing that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, that the plan or program has been communicated in writing to the laborers or mechanics affected, and records of the costs anticipated or actual costs incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of registration of apprenticeship programs, certification of trainee programs, registration of the apprentices and trainees, and ratios & wage rates prescribed in applicable programs.

J. Civil Rights

(1) **Nondiscrimination** - In accordance with Title VI of the Civil Rights Act (CRA), as amended, 42 U.S.C. §2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. §6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. §12132, and Federal transit law at 49 U.S.C. §5332, the vendor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the vendor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

(2) **Equal Employment Opportunity** - The following equal employment opportunity requirements apply:

(a) **Race, Color, Creed, National Origin, Sex** - In accordance with Title VI of the CRA, as amended, 42 U.S.C. §2000e, and Federal transit laws at 49 U.S.C. §5332, the vendor agrees to comply with all applicable equal employment opportunity requirements of U.S. DOL regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, DOL," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. §2000e note), and with any applicable Federal statutes, executive orders, regulations and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The vendor agrees to take affirmative action to ensure that applicants are employed & treated during employment without regard to their race, color, creed, national origin, sex or age. Action shall include but not be limited to employment, upgrading, demotion, transfer, recruitment, layoff, termination, rates of

pay or other forms of compensation; and selection for training, including apprenticeship. The vendor agrees to comply with any implementing requirements FTA may issue.

(b) Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. §§623 and 49 U.S.C. §5332), the vendor agrees to refrain from discrimination against present and prospective employees for reason of age, and comply with any implementing requirements FTA may issue.

(c) Disabilities - In accordance with section 102 of the Americans with Disabilities Act (42 U.S.C. §12112), the contractor agrees to comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities, and to comply with any implementing requirements FTA may issue.

K. Altoona Test Certification (for rolling stock purchases) (Check one of the following):

- ☐ The vehicle has been Altoona tested, report number: _____
☐ The vehicle is exempt from testing IAW 49 CFR 665.
☐ The vehicle is currently being tested at Altoona.

Funds will not be released until the purchasing agency gets a copy of the Altoona test report, as appropriate, per 49 CFR 665.

L. Incorporation of Federal Transit Administration (FTA) Terms

The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA circular 4220.1F are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any transit agency requests which would cause the transit agency to violate FTA terms and conditions.

M. Application of Federal, State, & Local Laws, Regulations, & Directives (Federal Changes)

The VENDOR agrees that Federal laws and regulations control project award and implementation. The VENDOR understands and agrees that unless the recipient requests FTA approval in writing, the VENDOR may incur a violation of Federal laws or regulations or this agreement if it implements an alternative procedure or course of action not approved by FTA. The VENDOR understands and agrees that Federal laws, regulations, and directives applicable on the date on which Federal assistance is awarded may be modified from time to time. In particular, new Federal laws, regulations, and directives may become effective after the date the project agreement is effective, and might apply to that project agreement. The VENDOR agrees that the most recent versions of such Federal laws, regulations, and directives will apply to the administration of the project at any particular time.

N. Right of the State Government to Terminate

Upon written notice, the VENDOR agrees that the State Government may suspend or terminate all or any part of State assistance if terms of the project agreement are violated, if the State Government determines that the purposes of the laws authorizing the Project would not be adequately served by the continuation of State assistance for the Project, if reasonable progress on the Project is not made, if there is a violation of the project agreement that endangers substantial performance of the Project, or if the State Government determines that State assistance has been willfully misused by failing to make appropriate use of Project property. Termination of State assistance for the Project will not typically invalidate obligations properly incurred before the termination date to the extent those obligations cannot be canceled. The State Government reserves the right to require the refund of the entire amount of State assistance provided for the Project or a lesser amount.

O. Disputes, Breaches, Defaults, or Other Litigation

The VENDOR agrees that FTA has a vested interest in the settlement of any dispute, breach, default, or litigation involving the Project. Accordingly:

- a. Notification to FTA. The VENDOR is aware that recipients of Federal assistance must notify FTA in writing of any current or prospective major dispute, breach, default, or litigation that may affect the Federal Government's interests in the Project or the administration or enforcement of Federal laws or regulations. If the Federal Government is to be named as a party to litigation for any reason, in any forum, the appropriate FTA Regional Counsel is to be notified in writing before doing so.

b. **Federal Interest in Recovery.** The VENDOR is aware that the Federal Government retains the right to a proportionate share, based on the percentage of the Federal share awarded for the Project, of proceeds derived from any third party recovery.

c. **Enforcement.** The VENDOR agrees to pursue its legal rights and remedies available under any third party contract or available under law or regulations.

d. **FTA Concurrence.** The VENDOR is aware that FTA reserves the right to concur in any compromise or settlement of any claim involving the Project.

e. **Alternative Dispute Resolution.** The VENDOR is aware that FTA encourages the use of alternative dispute resolution procedures, as may be appropriate.

f. **Agency Process.**

Transit agency enters dispute resolution process here.

P. Fly America

The Contractor agrees to comply with 49 U.S.C. 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that recipients and subrecipients of Federal funds and their contractors are required to use U.S. Flag air carriers for U.S. Government-financed international air travel and transportation of personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

Q. Recycled Products

The contractor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR 247.

R. Access for Individuals with Disabilities

The VENDOR agrees to comply with 49 U.S.C. § 5301(d), which states the Federal policy that elderly individuals and individuals with disabilities have the same right as other individuals to use public transportation services and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement transportation accessibility rights for elderly individuals and individuals with disabilities. The VENDOR also agrees to comply with all applicable provisions of section 504 of the Rehabilitation Act of 1973, as amended, with 29 U.S.C. § 794, which prohibits discrimination on the basis of disability; with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 *et seq.*, which requires that accessible facilities and services be made available to individuals with disabilities; and with the Architectural Barriers Act of 1968, as amended, 42 U.S.C. §§ 4151 *et seq.*, which requires that buildings and public accommodations be accessible to individuals with disabilities; and with other laws and amendments thereto pertaining to access for individuals with disabilities that may be applicable. In addition, the VENDOR agrees to comply with applicable implementing Federal regulations any later amendments thereto, and agrees to follow applicable Federal directives except to the extent FTA approves otherwise in writing. Among those regulations and directives are: (1) U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 C.F.R. Part 37; (2) U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 C.F.R. Part 27; (3) Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB)/U.S. DOT regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 C.F.R. Part 1192 and 49 C.F.R. Part 38; (4) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. Part 35; (5) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. Part 36; (6) U.S. General Services Administration (U.S. GSA) regulations, "Accommodations for the Physically Handicapped," 41 C.F.R. Subpart 101-19; (7) U.S. EEOC, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630; (8) U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled," 47 C.F.R. Part 64, Subpart F; (9) U.S. ATBCB regulations, "Electronic and Information Technology Accessibility Standards," 36 C.F.R. Part 1194; (10) FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 C.F.R. Part 609; and (11) Federal civil rights and nondiscrimination

directives implementing the foregoing Federal laws and regulations, except to the extent the Federal Government determines otherwise in writing.

II. Federal Motor Vehicle Safety Standards (FMVSS) Certification (for rolling stock purchases)

Any vehicles provided by the vendor will comply with all applicable FMVSS. The vendor shall submit 1) manufacturer's FMVSS self-certification sticker information that the vehicle complies with relevant FMVSS or 2) manufacturer's certified statement that the contracted buses will not be subject to FMVSS regulations.

FMVSS Certification

Name of Company	Printed Name of Person Completing Form
Date	Signature

III. REQUIRED CLAUSES FOR BIDS OVER \$100,000:

The vendor agrees to include the following in subcontracts exceeding \$100,000 financed by the FTA, and certifies the following:

A. Debarment and Suspension

The vendor hereby certifies that it and its principals have not presently or within a three year period been debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any Federal agency; and the vendor hereby certifies that it and its principals have not presently or within a three-year period been convicted of or had a civil judgment rendered against them for the commission of a fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (Federal, state or local) 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.

B. Clean Water & Air

The vendor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The vendor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§7401 et seq. The vendor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to the FTA and the EPA.

IV. REQUIRED CERTIFICATIONS FOR BIDS OVER \$100,000:

The vendor agrees to include the following in subcontracts exceeding \$100,000 financed by the FTA, and certifies the following:

A. Buy America (Check where applicable):

- ☐ The vendor or offeror hereby certifies it will comply with the requirements of 49 USC 5323(j) and the applicable regulations in 49 CFR 661, providing Buy America compliant manufactured goods.
- ☐ The vendor or offeror cannot comply with the requirements 49 USC 5323(j), but may qualify for an exception to the requirement pursuant to the regulations in 49 CFR 661.

Buy America Certification

Name of Company	Printed Name of Person Completing Form
Date	Signature

B. Non-Lobbying

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

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

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

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

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

Lobbying and Disclosure Certification

Name of Company	Printed Name of Person Completing Form
Date	Signature

V. SPECIAL PROJECT TYPE PROVISIONS - the following addenda are attached and endorsed as appropriate:

- A. Construction or Architectural & Engineering Projects ☐
- B. Transit Operations or Management Projects ☐
- C. Intelligent Transportation System or Research & Development ☐

VI. CERTIFICATION TO PURCHASER:

- A. The undersigned vendor certifies that the manufactured good(s) furnished will meet or exceed the specifications, and/or that services rendered will comply with the terms of the solicitation or contract.
- B. The undersigned vendor certifies that it has read all of the bid, proposal, or contract documents and agrees to abide by the terms, certifications, and conditions thereof.

Name of Company	Address	
	Printed Name of Person Completing Form	
Telephone	Signature	
Date	SS# or Tax ID #	
Description of Commodity or Service		
Disadvantaged Business Enterprise Information		Type of Organization (circle)
Is your firm a DBE? <input type="checkbox"/> (yes) <input type="checkbox"/> (no)		<input type="checkbox"/> Sole Proprietorship <input type="checkbox"/> General Proprietorship
If yes, what type?		<input type="checkbox"/> Corporation <input type="checkbox"/> Limited Partnership
		<input type="checkbox"/> Limited Proprietorship

Exhibit B: Scope of Work

SCOPE OF WORK
FORT BEND COUNTY AND PUBLIC TRANSPORTATION ASSETS
LIVE AUCTION

1. **The Merchandise shall be sold by live auction on an appointed auction day, date, and time, and shall be available for preview on an appointed day, date, and time. All Merchandise shall be sold "AS IS" and "WHERE IS" to the highest bidder, and shall be auctioned WITHOUT MINIMUMS, RESERVES, OR CONFIRMATIONS, unless otherwise agreed to in writing by Seller and Auctioneer.**

2. **The Seller agrees to grant Auctioneer the exclusive right to market and sell the merchandise appointed for auction by Seller. The Seller may add additional merchandise to each auction at any time. Accordingly, the property cannot be withdrawn from the sale by the Seller for any reason without the consent of the Auctioneer in writing or by email. The Seller may not attempt to sell, transfer, destroy, or alter the merchandise during the auction process.**

3. **Seller shall pay Auctioneer an auction sales fee equal to ten percent (10%) of the gross proceeds of the sale of all general merchandise. Auctioneer will not charge buyer a buyer's premium. Buyer will pay three percent (3%) of the gross purchase price of each item purchased by such buyer paying by credit card.**

4. **Auctioneer agrees to promote the sale of the merchandise by mass e-mail, web analytics, and multiple promotional third party internet websites. The type of promotion will be discussed prior to each live auction between Fort Bend County and Auctioneer. Type of promotion may include: Auctioneer printing 1,000 two-colored brochures at least fourteen (14) calendar days prior to Auction, mailing brochures to prospective bidders, and supplying Fort Bend County Purchasing Department with at least 100 brochures for department use. Auctioneer will be required to place an ad in the Houston Chronicle, Fort Bend Herald, Fort Bend Independent Newspapers, and the Southwest Star once a week for two (2) weeks prior to the live auction. Auctioneer shall also place Seller's listing on Auctioneer's Website at: www.lemonsauctioneers.com, www.onlinepros.com, and www.ernieauction.com.**

5. **Seller shall be responsible for placing all merchandise in the assigned auction areas. Auctioneer shall supply experienced staff to conduct asset tracking and take digital photographs of all merchandise prior to the date of the**

live auction, conduct preview, administrative duties, assist Seller with removal supplying one (1) experienced auction employee for one (1) day only or as necessary and through our offices.

6. Auctioneer may, at its discretion, display photos or descriptions of the merchandise on a third party website to market and sell the merchandise. Auctioneer will watermark all photos placed on the internet for marketing purposes to defer fraudulent misuse of photographs.

7. Seller assumes all risk of loss. Auctioneer shall not be responsible, under any circumstances, for any loss, theft, or damage to the merchandise, either at its present location or at the appointed auction locations, whether before, during, or after said auction. Auctioneer will supply Seller with a copy of their General Liability Insurance for Sellers Records.

8. Seller shall provide Auctioneer with any and all information pertaining to the merchandise, but not be limited to current condition, use, salvage, parts missing, damaged, current vehicle identification numbers, and any available manuals or reports.

9. Sellers name, or designated business name as noted in the Agreement, will be publicized on Auctioneer's website, on any marketing material, third party websites, to promote the sale merchandise.

10. Auctioneer may display Sellers logo on Auctioneers website, third party websites, and any marketing material to promote the sale merchandise.

11. Proceeds shall be payable by cash, major credit or debit card, cashier's check or check with a bank letter of guarantee made out to Fort Bend County and signed by an officer of the bank. All cash buyers will be required to make a \$500.00 refundable deposit to bid.

12. Seller understands that if the scheduled auction is canceled by Seller, the uncollected advertising shall be reimbursed to Auctioneer, upon presentation to Seller of Auctioneer's valid invoices.

13. Auctioneer shall not be responsible for removal of any auction items.

14. Auctioneer will supply on auction day, professional and experience staff including: auctioneers, cashiers, clerks, and ring persons (bid spotters).

Auctioneer will supply computerized registration and clerking. Auctioneer will use its mobile office to conduct the complete auction registration and cashiering process as necessary. Auctioneer will supply all registered bidders with Fort Bend County's terms and conditions of the auction sale. Seller to secure the perimeter of the auction location with at least (1) police officer on auction day.

15. Proceeds shall be payable by cash, major credit or debit card, cashier's check or check with a bank letter of guarantee made out to Fort Bend County and signed by an officer of the bank.

Seller shall not be charged a fee for sales that are paid through Auctioneer's Nexlix Transax Credit Card Gateway. Auctioneer will not be responsible for buyer's who default on payment, however, Auctioneer shall make diligent attempts to collect all monies due to Seller from the proceeds of the auction. In the event that monies are not collected on an item sold by live auction, Auctioneer will contact Seller and discuss the option of listing merchandise on Auctioneers online auction platform or Seller may remove and dispose of merchandise as Seller sees fit. Bidders that do not pay for their purchases during the stated deadline may be permanently banned from future live and online auctions.

16. Seller will not release any sold merchandise until the Seller has received verification from Auctioneer that payment has been received from the winning bidder by paid receipt.

17. Auctioneer is licensed and regulated by the Texas Department of Licensing and Regulation. A license issued by said Department does not imply approval or endorsement of Auctioneer by the State of Texas. If there are unresolved complaints, they can be made by mail to Texas Department of Licensing and Regulation, P.O. Box 12167, Austin, Texas 78711, or by calling (512)463-2906.

18. Auctioneer will remit gross proceeds for the auction to the County upon completion of auction; except credit card receipts which will be remitted within 72 hours of the conclusion of the auction. Auctioneer will be responsible for completing appointed documentation for all Public Transportation items. The Public Transportation items will be sold as a separate auction and documented accordingly.

19. Auctioneer shall remit to Fort Bend County all sales taxes collected from purchasers and due and payable to the State of Texas. Auctioneer shall account for noncollection of sales tax to persons or entities holding valid tax exemption

or resale certificates and submit documentation to Fort Bend County.

20. Auctioneer shall furnish to Seller an itemized statement of all auction proceeds. Such statement shall include the lot number and description of all merchandise, the amount collected, and a final accounting of all transactions.
21. Seller shall be responsible for all vehicle and bus title transfers and documentation. Seller will submit to the Texas Department of Motor Vehicles current buyer information for all titled vehicles.
22. Seller will supply or have access to a public restroom facility.
23. Merchandise removal shall be on appointed days, dates, and times. All merchandise not removed by the appointed date shall be considered abandoned and Seller may dispose of said merchandise at its sole discretion.

FORM 1295

1 of 1

**OFFICE USE ONLY
CERTIFICATION OF FILING**

Certificate Number:
2016-117192

Date Filed:
09/27/2016

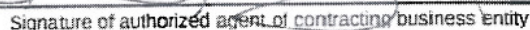
Date Acknowledged:

Fort Bend County

RFP 16-082 Amendment 1
Auction Services

5 Check only if there is NO Interested Party.

~~I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.~~



Sworn to and subscribed before me, by the said Lori Lemons Campbell, this the 27th day of September, 2016, to certify which, witness my hand and seal of office.

Notary

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY CERTIFICATION OF FILING

Certificate Number:
2017-180076

Date Filed:
03/20/2017

Date Acknowledged:

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

Lemons Auctioneers, LLP.
Tomball, TX United States

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

Fort Bend County

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

24788
Second Amendment for Auctioneer Services 16-082

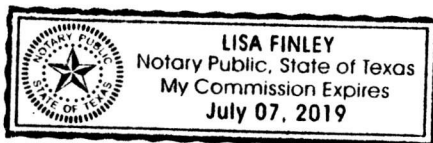
4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary

5 Check only if there is NO Interested Party.



6 AFFIDAVIT

I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.



AFFIX NOTARY STAMP / SEAL ABOVE

[Signature]
Signature of authorized agent of contracting business entity

Sworn to and subscribed before me, by the said Lori Lemons Campbell this the 20th day of March, 2017, to certify which, witness my hand and seal of office.

[Signature]
Signature of officer administering oath

Lisa Finley
Printed name of officer administering oath

Notary
Title of officer administering oath

CERTIFICATE OF INTERESTED PARTIES**FORM 1295**

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

**OFFICE USE ONLY
CERTIFICATION OF FILING**

Certificate Number:
2017-180076

Date Filed:
03/20/2017

Date Acknowledged:
03/28/2017

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

Lemons Auctioneers, LLP.
Tomball, TX United States

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

Fort Bend County

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

24788
Second Amendment for Auctioneer Services 16-082

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 AFFIDAVIT**

I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.

Signature of authorized agent of contracting business entity

AFFIX NOTARY STAMP / SEAL ABOVE

Sworn to and subscribed before me, by the said _____, this the _____ day of _____,
20_____, to certify which, witness my hand and seal of office.

Signature of officer administering oath

Printed name of officer administering oath

Title of officer administering oath

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY CERTIFICATION OF FILING

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

Lemons Auctioneers, LLP.
Tomball, TX United States

Certificate Number:
2018-329657

Date Filed:
03/23/2018

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

Fort Bend County

Date Acknowledged:
04/03/2018

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.

24788
Second Amendment for Auctioneer Services 16-082

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)