



B R O W N S V I L L E
PUBLIC UTILITIES BOARD

LEGAL NOTICE
AND
REQUEST FOR QUALIFICATION STATEMENTS
Q010-24

The Brownsville Public Utilities Board will accept sealed Request for Statement of Interest and Qualifications for a Bond Counsel (“Firm”) **until 5:00 PM, November 8, 2023** in the Brownsville Public Utilities Board Purchasing Office, 1155 FM 511, Olmito, Texas. **Qualification statements received after this time will not be considered.**

Qualification Statements will be acknowledged on November 9, 2023 at 11:00 AM (CST). Firms are invited to listen to the opening via conference call, (956) 214-6020, at 11:00 AM, November 9, 2023.

Details may be obtained at Brownsville Public Utilities Board Purchasing website: https://www.brownsville-pub.com/rfp_status/open/.

Please mark on the **outside of the envelope and on any carrier’s envelope**: “Q010-24 Request for Statement of Interest and Qualifications for a Bond Counsel, November 8, 2023, 5:00 PM”, and send to the attention of Diane Solitaire, Purchasing Department, 1155 FM 511, Olmito, Texas 78575.

The Brownsville Public Utilities Board will not be responsible in the event that the U.S. Postal Service or any other courier system fails to deliver the sealed qualification statement to the Brownsville Public Utilities Board, Purchasing Office by the given deadline above. **Electronic transmission or facsimile of Qualification Statements will not be acceptable.**

The Brownsville PUB reserves the right to reject any or all responses and to waive irregularities contained therein and to accept any response deemed most advantageous to the Brownsville PUB.

Diane Solitaire
Purchasing and Materials Manager
Brownsville Public Utilities Board
(956) 983-6366 – Phone

Please submit this page upon receipt

ACKNOWLEDGEMENT FORM

Q010-24

Request for Statement of Interest and Qualification for a Bond Counsel

For any clarifications, please contact Diane Solitaire at Brownsville PUB Purchasing Department at (956) 983-6366 or e-mail: dsolitaire@brownsville-pub.com

Please email this page upon receipt of the RFQ package or legal notice. If you only received the legal notice and you want the RFQ package mailed please provide a method of shipment with account number in the space designated below.

Check one:

Yes, I will be able to send an RFQ response and obtain the RFQ package from website.

Yes, I will be able to send an RFQ response; please email the RFQ package.

Email: _____

No, I will not be able to send an RFQ response for the following reason:

If you are unable to send your RFQ response, kindly indicate your reason above and return this form **via email to dsolitaire@brownsville-pub.com**. This will ensure you remain active on our vendor list.

Date _____

Company: _____

Name: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Phone: _____ Fax: _____

Email: _____

INTRODUCTION

General

BPUB is an agency formed by the City of Brownsville, Texas, under Article VI of its Home Rule Charter. The Board is organized for the purpose of aiding and acting on behalf of the City to manage and control the City's municipally owned electric, water and wastewater systems.

BPUB is governed by the Board of Directors ("Board"), which has control and management supervision of all affairs of the agency as more detailed below. The Board holds a regular meeting once a month, usually on the second Monday, and occasionally holds special meetings and workshops.

The BPUB System and Organization

The Brownsville Public Utilities Board (BPUB) is a component unit of the City of Brownsville, Texas and is 92.91% participant of the Southmost Regional Water Authority (Authority). The BPUB was formed in 1960 to provide electrical, water, and wastewater services to its customers in the Brownsville area, and the Authority provides treated water to various areas of the lower Cameron County. Pursuant to the City's Charter, management, operation, and control of the City's combined water, wastewater, and electric utilities system is delegated to the BPUB, and the Authority has a mutual agreement with the BPUB authorizing the BPUB to manage all accounting and reporting functions. The Authority is comprised of all of the territory contained within the City of Brownsville, the City of Los Fresnos, the Town of Indian Lake, Brownsville Navigation District of Cameron County, and Valley Municipal Utility District No. 2 of Cameron County.

BPUB executive administration includes a general manager/chief executive officer, an assistant general manager/chief operations officer and a chief financial officer that oversee specific divisions. BPUB employs approximately 602 employees. BPUB's fiscal year is a 12-month period ending September 30th of each year.

The BPUB Board is comprised of seven members, six of whom are appointed by the City Commission for four-year terms, and the seventh member being the City's Mayor serving ex-officio. The Board appoints a General Manager and Chief Executive Officer who is responsible for the management of all BPUB employees and for administering all affairs of the BPUB.

The **Electric System** provides retail electric service through its electric facilities to consumers inside and outside the city limits. The existing customer service area of the electric facilities encompasses approximately 133 square miles of Cameron County, including substantially the entire City (estimated by the Board as over 96%). The electric system serves a growing base of about 52,410 non-municipal customers and a peak load of 293.43 MW in Fiscal Year 2022. Current resources, consisting of Power Purchase Agreements and ownership in power plants, are sufficient to cover peak demand.

The BPUB meets its power supply obligations through a combination of resources: (i) the operation of the Silas Ray Power Production Facilities owned and operated by the BPUB (composed of one conventional steam turbine unit and a re-powered steam turbine in combined cycle with a combustion turbine and a GE LM6000 gas turbine generator for an estimated gas and oil fired capability of 115 MW), (ii) the operation of the Calpine/Hidalgo combined cycle Power Plant in which the BPUB has an ownership interest entitling it to 105 MW of capacity, (iii) A Power Purchase Agreement with Constellation Energy Corporation entitling the Board to purchase 78 MW of renewable wind energy, (iv) a Power Purchase Agreement with AEP Energy Partners, Inc. entitling the Board to an estimated 65 MW of energy, and (v) economy energy purchases through an economy power interchange arrangement.

Fuel and transportation contracts with a variety of suppliers are in place, limiting the BPUB's exposure to the volatile fuel commodity markets.

The **Water System** draws raw water from the Rio Grande River and consists of a river rock weir, a river pump station, two reservoirs providing 187 million gallons total capacity, and a raw water transport system. Surface water treatment is achieved by two water treatment plants providing 40 million gallons of total capacity; 20 MGD treatment capacity each. Two clear wells provide 6.85 million gallons storage capacity, and three elevated storage tanks provide 5.0 million gallons of elevated storage capacity. Water is pumped by four high-service pumping stations into the distribution system which consists of 676 miles of transmission and distribution mains. The BPUB mainly sells to residential and commercial customers, but also sells treated water on a wholesale basis to two other water distribution companies that amount to approximately 5.03% of revenues. The BPUB partnered with the Southmost Regional Water Authority and built a 7.5 million gallon reverse osmosis water treatment plant of which the BPUB has 92.91% ownership. The SRWA plant completed an expansion in December 2015 that increased the treatment capacity to 10 MGD. This plant includes a 7.5 million gallon storage tank.

The **Wastewater System**, consisting of collection and treatment facilities, includes gravity wastewater collection lines, 178 lift stations and two treatment plants. Wastewater is transported by lift stations and associated force mains to one of two wastewater treatment plants – the Robindale Plant or the South Plant. The Robindale Plant has a treatment capacity of 14.5 MGD and provides preliminary waste treatment with new technology, headworks facility featuring fine screens with head cell grit removal with combined compactor washer system and includes an odor control system. It also provides secondary waste treatment utilizing a Modified Ludzack-Ettinger (MLE) process of activated sludge, turbo blowers with auto dissolved oxygen control, secondary setting, ultra-violet light system, effluent cascade aeration system, sludge thickening, aerobic digestion, mechanical sludge dewatering and land disposal of sludge via a Dedicated Land Disposal (DLD) site of 137 acres. The South Plant has a treatment capacity of 12.8 MGD. The South Plant treatment process uses activated sludge, complete-mix, and aerobic digestion. Sludge is thickened and disposed of at a DLD. A two meter belt filter press is used for bio-solids dewatering and the headwork facility includes an odor control system.

BPUB's Fiscal Years 2024-2028 Capital Improvements Plan Budget includes \$116.1 million in Electric spending requirements for transmission, distribution and power production improvements. Funding for the Electric plan is expected to be provided primarily from current revenue with some funding from commercial paper issuance followed by the issuance of long-term debt.

It is also anticipated that the Water and Wastewater System will require approximately \$87.2 million for system improvements. Such improvements will include treatment facility improvements, reservoir, pump station and lift station improvements, and major transmission, distribution and collection improvements. It is anticipated that such improvements will be financed through a combination of current revenues, the issuance of commercial paper followed by the issuance of long-term debt, Impact Fees, and grants.

The BPUB has authorized commercial paper programs for the Combined Utility Systems of \$100 million in tax-exempt commercial paper.

I. INSTRUCTIONS TO PARTICIPATING FIRMS

The Brownsville Public Utilities Board of the City of Brownsville, Texas is requesting qualification statements from legal firms interested in providing bond counsel services to the BPUB and the Authority. Firms with relevant municipal bond counsel experience and qualifications are encouraged to submit their statement of interest and qualifications. Preparation of submittals will be at the expense of the legal firm.

The agreement period will be for a five-year period under the same terms and conditions of the contract contingent upon mutual agreement by both parties (See Section VIII-Term).

The following instructions should be followed:

1. Please respond specifically to all information requested in this Request for Statement of Interest and Qualifications or indicate on the attached acknowledgement form why no response is given.
2. Please limit response to relevant material; additional information must be submitted in the form of an attachment or appendix.
3. Identify the question being answered in the introduction to each response.
4. After release of this solicitation, Respondent's contact regarding this RFQ with members of the RFQ evaluation, interview or selection panels, and employees of the BPUB or officials of the BPUB other than the Purchasing Manager or Purchasing Staff is prohibited and may result in disqualification from this procurement process. No officer, employee,

agent or representative of the Respondent shall have any contact or discussion, verbal or written, with any members of the BPUB Board of Directors, members of the RFQ evaluation, interview, or selection panels, BPUB staff, or directly or indirectly through others, seek to influence any BPUB Board member, BPUB staff regarding any matters pertaining to this solicitation, except as herein provided. If a representative of any Respondent violates the foregoing prohibition by contacting any of the above listed parties with whom contact is not authorized, such contact may result in the Respondent being disqualified from the procurement process.

<u>TARGET DATE</u>	<u>DESCRIPTION OF EVENTS</u>
October 23, 2023	RFQ distributed to prospective firms.
October 31, 2023	Last day to submit questions.
November 8, 2023	Responses due 5:00 PM at the BPUB Purchasing Office.
November 17, 2023	Evaluation finalized.
December 11, 2023	BPUB Board selection of a firm.

II. BROWNSVILLE PUB RIGHTS

1. If only one or no RFQ response is received by "submission date", the BPUB has the right to reject, re-propose, accept and/or extend the RFQ by up to an additional two (2) weeks from original submission date.
2. The right to reject any/or all RFQs and to make award as they may appear to be advantageous to the Brownsville Public Utilities Board.
3. The right to hold RFQ for 90 days from submission date without action, and to waive all formalities in RFQ.
4. The right to extend the total RFQ beyond the original 90-day period prior to an award if agreed upon in writing by both parties and if RFQ holds firm.
5. The right to terminate all or any part of the unfinished portion of the work resulting from this solicitation within thirty (30) days written notice; upon default by the firm, for delay or non-performance by the firm, or if it is deemed in the best interest of the Utilities for convenience.
6. The BPUB reserves the right to request additional information or to meet with representatives from responding organizations to discuss points in the RFQ before and after submission, any and all of which may be used in forming a recommendation.
7. The BPUB reserves the right to reject any and all qualification statements, and to accept the RFQ it considers in its best interest based upon the requirements and descriptions outlined in this RFQ.

Any interpretation, correction, or change of the RFQ will be made by ADDENDUM. Changes or corrections will be issued by the Brownsville PUB Purchasing Department. **Addenda will be emailed to all who have returned the RFQ Acknowledgement Form.** Addenda will be issued as expeditiously as possible. It is the responsibility of the vendors to determine whether all addenda have been received. It will be the responsibility of all respondents to contact the Brownsville PUB prior to submitting a response to the RFQ to ascertain if any addenda have been issued, and to obtain any and/or all addenda, execute them, and return addenda with the response to the RFQ. Addenda may be posted on BPUB's webpage.

III. SUBMISSION REQUIREMENTS/CONTENTS

A firm wishing to be considered for the bond counsel contract is requested to submit on the firm's letterhead, a statement which provides information on the following points, numbered and headed as indicated. Responding firms should refer to Section I, Instructions to Participating Firms for the response format. You should be aware that the contents of the successful RFQ response will become a part of subsequent contractual documents. Failure to accept this obligation may result in the cancellation of any award.

1. Information on the firm.
 - a. Name and address of the firm. If the firm has a permanent office within the Rio Grande Valley, indicate the name, type, address, telephone number and number of employees in such office.
 - b. History of the firm, indicating date the firm was founded and how long the firm has provided bond counsel services to issuers of tax-exempt debt.
 - c. Organization of the firm, including a discussion of any recent or proposed changes in management or ownership.
 - d. Provide an organizational chart of the firm.
 - e. A copy of the firm's most recent audited financial statement.
2. Qualifications of Firm
 - a. Discuss the firm's experience relative to Section IV, Qualifications. Include in this discussion a list of at least five municipal clients to include name, email address and phone number which the firm and the representative assigned to the BPUB have served in the capacity of bond counsel during the past five years. Indicate clients with outstanding electric, water, or

sewer system revenue obligations exceeding \$250 million that the firm currently has under contract as bond counsel.

- b. Discuss the firm’s approach in assisting municipal clients in developing revenue bond financing programs. Identify techniques used to lower financing and/or issuance costs.
 - c. Discuss the firm’s approach to a rating agency meeting, including material, media, BPUB staff preparation, etc.
 - d. Discuss the firm’s approach to timely securing Bond Purchase Agreements with major bond purchasers.
 - e. Discuss the firm’s capabilities to provide the services listed in Section VI, Scope of Services.
 - f. Discuss the firm’s ability to provide arbitrage rebate guidance and other IRS tax-exempt related issues.
 - g. Discuss the firm’s ability to provide testimony in litigation cases concerning the Public Utility Commission.
3. Identify the specific individuals who will be assigned to the BPUB, and provide brief resumes for each highlighting their experience with similar municipal clients and BPUB experience, if any. Indicate each individual’s role relative to the BPUB’s account. Also, indicate each individual’s availability and the minimum notice required by the firm to guarantee availability.
 4. Provide fee schedules as described in Section VII, Fees. List any estimated out-of-pocket expenses to be paid by the BPUB. Explain how your firm controls out-of-pocket expenses. Please note that a separate engagement letter will be accepted for the Authority.
 5. Identify and discuss any potential conflicts of interest, including those dealing with other jurisdictions in the Brownsville area.
 6. Evidence of professional liability (E&O) policy with a minimum limit of \$1,000,000.

BPUB is requesting five (5) sets of the qualification statements, including attachments, plus one (1) electronic version (PDF format on a USB flash drive). Qualification Statements shall be enclosed in an envelope and plainly marked on the outside of the envelope or any carrier’s envelope: “Q010-24 Request for Statement of Interest and Qualifications for a Bond Counsel, November 8, 2023, 5:00 PM”, to be mailed, sent by overnight courier, or hand delivered to the attention of:

Diane Solitaire
Purchasing Manager
Brownsville Public Utilities Board
1155 FM 511
Olmito, TX 78575

Qualification Statements will be accepted until **5:00 PM, November 8, 2023**.
NO QUALIFICATION STATEMENT WILL BE ACCEPTED AFTER 5:00 P.M. ON THE DATE DUE.

Qualification Statements will be acknowledged at 11:00 AM, November 9, 2023. Upon written request, non-confidential information on the accepted RFQ will be available after the BPUB Board selects the successful Bond Counsel firm.

All RFQ envelopes shall contain a signed original and four (4) copies, plus one (1) electronic version (PDF format on a USB flash drive). The original RFQ will be opened and only the Firm's name read aloud at the BPUB Purchasing Office located at 1155 FM 511, Olmito, Texas. All RFQs will be managed by BPUB in a manner that avoids disclosure of the contents to competing firms and keeps the proposals confidential during any negotiations. All RFQs will be open for public inspection as stated in the public information act, after the contract is awarded; however, trade secrets and confidential commercial or financial information in the RFQs specifically identified by the firms will not be open for public inspection. Accordingly, all pages in the RFQ that the Firm considers to be proprietary and confidential should be appropriately marked.

Questions or clarifications concerning the BPUB requirements may be directed to:

Diane Solitaire
Purchasing
Brownsville Public Utilities Board
1155 FM 511
Olmito, TX 78575
(956) 983-6366
dsolitaire@brownsville-pub.com

Responses will be in the form of an addendum issued to all firms that have returned the RFQ Acknowledgement Form.

During the performance of this contract, the firm agrees not to discriminate against any employee or applicant for employment because of race, national origin, age, religion, gender, marital or veteran status, or physically challenging condition.

IV. QUALIFICATIONS

A potential Bond Counsel firm should meet the following qualifications:

1. Ten (10) years successful municipal and municipally owned utility practice in Texas.
2. Experienced and adequate number of attorneys and support staff to meet BPUB requirements for expertise and timely response. Identify the attorneys who practice full time in the area of public finance law.
3. Experience with various debt instruments including tax-exempt and taxable bonds, notes, commercial paper, variable rate obligations, swaps, leases, contract revenue and conduit financings.
4. Experience with rating agencies, the credit rating process and experience with obtaining credit support and bond insurance.
5. Experience with the Texas Bond Review Board and Office of the Attorney General in relation to public financing.
6. Experience and expertise in addressing federal securities laws and regulations related to tax-exempt and taxable debt obligations. Identify the attorneys who practice full time in the area public finance tax law.
7. All respondent law firms shall comply with the Code of Professional Responsibility of the State Bar of Texas and other applicable law regarding conduct, including conflicts of interest.

V. CRITERIA FOR SELECTION

This procurement will comply with applicable BPUB policy. Any exceptions shall be submitted in writing and be attached hereto. The successful firm will be selected by the BPUB using the evaluation factors outlined below. The BPUB reserves the right to require oral presentations by any or all firms. These factors shall be applied to all eligible, responsive firms in comparing RFQ's and selecting the bond counsel. Award may be made without discussion with Bond Counsel firms after RFQ's are received. RFQ's should, therefore, be submitted on the most favorable terms.

All costs directly or indirectly related to preparation of a response or oral presentation, if any, required to supplement and/or clarify an RFQ shall be the sole responsibility of and shall be borne by your firm.

The Board of Directors will use the following evaluation criteria for selecting the best qualified firm.

- a. Prior demonstrated applicable experience.
- b. Qualifications and availability for service in areas of required expertise.
- c. Fee Schedule (as noted in Section VII)
- d. References (provide at least three; complete the attached form for each reference)

VI. SCOPE OF SERVICES

The scope of services to be provided by the Bond Counsel may include, but not be limited to, the following services:

Debt Obligations

1. Render opinions regarding the validity and binding effect of securities and, if the securities are issued on a tax-exempt basis, the excludability of interest on the securities from gross income for federal income tax purposes.
2. Prepare all resolutions, ordinances, notices and other instruments pursuant to which bonds will be authorized, issued, delivered and secured in cooperation and upon consultation with the BPUB Board, the City Commission, BPUB consultants and other legal and Bond Counsels of the BPUB and the City. Render opinions regarding bond ordinance covenants and other utility system related compliance documents.
3. Attend meetings of the BPUB Board and the City Commission with reference to the authorization and issuance of bonds to the extent required or requested.
4. Represent the BPUB in the preparation of any bond purchase contracts and insuring that all participants, including underwriters and investment banking firms, whether retained by or contracting with the BPUB, disclose all conflicts of interest to and with the BPUB and any other parties involved in the bonds.
5. Prepare any IRS filings required by federal tax law.
6. Assist in the preparation of specified sections of the Preliminary Official Statement and the Final Official Statement, with the understanding that bond counsel will not be expected to independently verify other data contained in the Official Statement and that the Official Statement may so state.

7. Make prospective legal recommendations on credit enhancement options, legality and feasibility of synthetic products, commercial paper and bond refundings and refinancings.
8. Assist the BPUB in presentations to the major rating agencies in order to obtain ratings for the bonds.
9. Prepare certain certificates and reviewing such other documents as is customary and necessary in order to structure and issue bonds.
10. Provide advice and counsel on continuing compliance with securities, tax, and other applicable law.
11. Provide assistance on legislative matters affecting the BPUB.
12. Supervise the printing and binding of the bond transcripts and provide a hard copy and an electronic copy of the bond transcript as agreed to with BPUB.
13. Submit bond transcript to the Attorney General for approval.
14. Assist with the preparation of closing documents, provide instructions and advice for closing and attend closing as required or requested.
15. Assist BPUB in connection with legal services involving loans or grants from local, state or federal agencies.
16. Provide all other services usually necessary and required of a full service bond counsel, whether specifically outlined in the scope of services or not.

Investments

1. Render opinions regarding eligible investments under the Texas Public Funds Investment Act.
2. Assist with Investment Policy revisions per legislative changes to the Texas Public Funds Investment Act.

VII. FEES

The firm proposes the following fee schedule:

Fee schedules for short and long-term debt submitted on a transactional basis, expressed as a rate per \$1,000 debt issued.

A simultaneous sale of similarly secured bonds or certificates should be billed as one issue.

For services not directly associated with the issuance of debt, provide either an hourly fee for each attorney and paralegal that will provide legal services to BPUB or retainer basis. State how out-of-pocket expenses will be billed.

A separate engagement letter for the Southmost Regional Water Authority will be accepted.

VIII. TERM

Because of the special advisory nature of the position of Bond Counsel, it is the BPUB's desire to enter into a long term relationship with the successful candidate. It is anticipated, but not guaranteed, that the BPUB will enter into a five-year term with the new Bond Counsel. This term is subject to annual renewal and may be terminated at any time by either party with sufficient notice as stated in the contract.

Required Forms CHECKLIST

The following documents are to be submitted as a part of the Bid/RFP/RFQ document

NAME	FORM DESCRIPTION	SUBMITTED WITH BID	
		YES	NO
Legal Notice	Acknowledgement Form	<input type="checkbox"/>	<input type="checkbox"/>
	Debarment Certificate	<input type="checkbox"/>	<input type="checkbox"/>
	Ethic Statement	<input type="checkbox"/>	<input type="checkbox"/>
	Conflict of Interest Questionnaire	<input type="checkbox"/>	<input type="checkbox"/>
	W9 or W8 Form	<input type="checkbox"/>	<input type="checkbox"/>
	Direct Deposit Form (will be provided to the awarded vendor)	<input type="checkbox"/>	<input type="checkbox"/>
	Residence Certification	<input type="checkbox"/>	<input type="checkbox"/>
Special Instructions (if applicable)	Bid Schedule/Cost sheet completed and signed	<input type="checkbox"/>	<input type="checkbox"/>
	Cashier Check or Bid Bond of 5% of Total Amount of Bid	<input type="checkbox"/>	<input type="checkbox"/>
	OSHA 300 Log	<input type="checkbox"/>	<input type="checkbox"/>
	Contractor Pre-Bid Disclosure completed, signed and notarized	<input type="checkbox"/>	<input type="checkbox"/>
	Sub-Contractor Pre-Bid Disclosure completed, signed, and notarized	<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>
References	Complete the Previous Customer Reference Worksheet for each reference provided	<input type="checkbox"/>	<input type="checkbox"/>
Addenda			

ETHICS STATEMENT (Complete and Return this form with Response)

The undersigned firm, by signing and executing this RFQ, certifies and represents to the Brownsville Public Utilities Board that firm has not offered, conferred or agreed to confer any pecuniary benefit, as defined by (1.07 (a) (6) of the Texas Penal Code, or any other thing of value as consideration for the receipt of information or any special treatment of advantage relating to this RFQ; the firm also certifies and represents that the firm has not offered, conferred or agreed to confer any pecuniary benefit or other thing of value as consideration for the recipient’s decision, opinion, recommendation, vote or other exercise of discretion concerning this RFQ, the firm certifies and represents that firm has neither coerced nor attempted to influence the exercise of discretion by any officer, trustee, agent or employee of the Brownsville Public Utilities Board concerning this RFQ on the basis of any consideration not authorized by law; the firm also certifies and represents that firm has not received any information not available to other firms so as to give the undersigned a preferential advantage with respect to this RFQ; the firm further certifies and represents that firm has not violated any state, federal, or local law, regulation or ordinance relating to bribery, improper influence, collusion or the like and that firm will not in the future offer, confer, or agree to confer any pecuniary benefit or other thing of value of any officer, trustee, agent or employee of the Brownsville Public Utilities Board in return for the person having exercised their person’s official discretion, power or duty with respect to this RFQ; the firm certifies and represents that it has not now and will not in the future offer, confer, or agree to confer a pecuniary benefit or other thing of value to any officer, trustee, agent, or employee of the Brownsville Public Utilities Board in connection with information regarding this RFQ, the submission of this RFQ, the award of this RFQ or the performance, delivery or sale pursuant to this RFQ.

THE FIRM SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS THE CITY OF BROWNSVILLE AND THE BROWNSVILLE PUBLIC UTILITIES BOARD, ALL OF THEIR OFFICERS, AGENTS AND EMPLOYEES FROM AND AGAINST ALL CLAIMS, ACTIONS, SUITS, DEMANDS, PROCEEDING, COSTS, DAMAGES, AND LIABILITIES, ARISING OUT OF, CONNECTED WITH, OR RESULTING FROM ANY ACTS OR OMISSIONS OF CONTRACTOR OR ANY AGENT, EMPLOYEE, SUBCONTRACTOR, OR SUPPLIER OF CONTRACTOR IN THE EXECUTION OR PERFORMANCE OF THIS RFQ.

I have read all of the specifications and general RFQ requirements and do hereby certify that all items submitted meet specifications.

FIRM: _____

OFFICER NAME: _____

OFFICER SIGNATURE: _____

ADDRESS: _____

CITY: _____

STATE: _____ ZIP CODE: _____

TELEPHONE: _____ TELEFAX: _____

FEDERAL ID#: _____ AND/OR SOCIAL SECURITY #: _____

DEVIATIONS FROM SPECIFICATIONS IF ANY:

NOTE: QUESTIONS AND CONCERNS FROM PROSPECTIVE CONTRACTORS SHOULD BE RAISED WITH OWNER AND ITS CONSULTANT (IF APPLICABLE) AND RESOLVED IF POSSIBLE, PRIOR TO THE RFQ SUBMITTAL DATE. ANY LISTED DEVIATIONS IN A FINALLY SUBMITTED RFQ MAY ALLOW THE OWNER TO REJECT A RFQ AS NON-RESPONSIVE.

CERTIFICATION REGARDING
DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY
MATTERS (Complete and Return this form with Response)

Name of Entity: _____

The prospective participant certifies to the best of their knowledge and belief that they and their principals:

- a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- b) Have not within a three year period preceding this bid been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- c) Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, Local) with commission of any of the offenses enumerated in paragraph (1) (b) of this certification; and
- d) Have not within a three year period preceding this application/bid had one or more public transactions (Federal, State, Local) terminated for cause or default.

I understand that a false statement on this certification may be grounds for rejection of this RFQ or termination of the award. In addition, under 18 USC Section 1001, a false statement may result in a fine up to a \$10,000.00 or imprisonment for up to five (5) years, or both.

Name and Title of Authorized Representative (Typed)

Signature of Authorized Representative

Date

I am unable to certify to the above statements. My explanation is attached.

THIS FORM MUST BE COMPLETED IN ITS ENTIRETY & SUBMITTED WITH BID RESPONSE

CONFLICT OF INTEREST QUESTIONNAIRE For vendor doing business with local governmental entity		FORM CIQ
<p>This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.</p> <p>This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).</p> <p>By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.</p> <p>A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.</p>	OFFICE USE ONLY	
<p>1 Name of vendor who has a business relationship with local governmental entity.</p>	Date Received	
<p>2 <input type="checkbox"/> Check this box if you are filing an update to a previously filed questionnaire. (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)</p>		
<p>3 Name of local government officer about whom the information is being disclosed.</p> <p style="text-align: center;">_____</p> <p style="text-align: center;">Name of Officer</p>		
<p>4 Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.</p> <p style="margin-left: 40px;">A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?</p> <p style="margin-left: 80px;"> <input type="checkbox"/> Yes <input type="checkbox"/> No </p> <p style="margin-left: 40px;">B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?</p> <p style="margin-left: 80px;"> <input type="checkbox"/> Yes <input type="checkbox"/> No </p>		
<p>5 Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.</p>		
<p>6 <input type="checkbox"/> Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).</p>		
<p>7</p> <p style="text-align: center;"> _____ Signature of vendor doing business with the governmental entity </p> <p style="text-align: right; margin-right: 100px;"> _____ Date </p>		

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

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

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

- (A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;
- (B) a transaction conducted at a price and subject to terms available to the public; or
- (C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

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

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

(2) the vendor:

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

- (i) a contract between the local governmental entity and vendor has been executed; or
- (ii) the local governmental entity is considering entering into a contract with the vendor;

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

- (i) a contract between the local governmental entity and vendor has been executed; or
- (ii) the local governmental entity is considering entering into a contract with the vendor.

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

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

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

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

(1) the date that the vendor:

- (A) begins discussions or negotiations to enter into a contract with the local governmental entity; or
- (B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or

(2) the date the vendor becomes aware:

- (A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);
- (B) that the vendor has given one or more gifts described by Subsection (a); or
- (C) of a family relationship with a local government officer.

BROWNSVILLE PUBLIC UTILITIES BOARD
RESIDENCE CERTIFICATION

In accordance with Art. 601g, as passed by the 1985 Texas Legislature, the following will apply. The pertinent portion of the Act has been extracted and is as follows:

Section 1. (a)

(1) "Nonresident bidder" means a bidder whose principal place of business is not in this state, but excludes a contractor whose ultimate parent company or majority owner has its principal place of business in this state.

(2) "Texas resident bidder " means a bidder whose principal place of business is in this state, and includes a contractor whose ultimate parent company or majority owner has its principal place of business in this state.

Section 1. (b)

The state or governmental agency of the state may not award a contract for general construction, improvements, services, or public works projects or purchases of supplies, materials or equipment to a nonresident bidder unless the nonresident's bid is lower than the lowest bid submitted by a responsible Texas resident bidder by the same amount that a Texas resident bidder would be required to underbid a nonresident bidder to obtain a comparable contract in the state in which the nonresident's principal place of business is located.

I certify that _____ (Company Name) is a **resident Texas bidder** as defined in Art. 601g.

Signature: _____

Print Name: _____

I certify that _____ (Company Name) is a **nonresident bidder** as defined in Art. 601g. and our principal place of business is: _____
(City and State)

Signature: _____

Print Name: _____

**Request for Taxpayer
Identification Number and Certification**

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

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

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

Part I Taxpayer Identification Number (TIN)

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

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number				
<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:25%; height: 20px;"> </td> </tr> </table>				
or				
Employer identification number				
<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:25%; height: 20px;"> </td> </tr> </table>				

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 for Part II, later.

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

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

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

Purpose of Form

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

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

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

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

Form **W-8BEN-E**

(Rev. October 2021)
Department of the Treasury
Internal Revenue Service

**Certificate of Status of Beneficial Owner for
United States Tax Withholding and Reporting (Entities)**

▶ For use by entities. Individuals must use Form W-8BEN. ▶ Section references are to the Internal Revenue Code.
▶ Go to www.irs.gov/FormW8BENE for instructions and the latest information.
▶ Give this form to the withholding agent or payer. Do not send to the IRS.

OMB No. 1545-1621

Do NOT use this form for:

- U.S. entity or U.S. citizen or resident W-9
- A foreign individual W-8BEN (Individual) or Form 8233
- A foreign individual or entity claiming that income is effectively connected with the conduct of trade or business within the United States (unless claiming treaty benefits) W-8ECI
- A foreign partnership, a foreign simple trust, or a foreign grantor trust (unless claiming treaty benefits) (see instructions for exceptions) . . . W-8IMY
- A foreign government, international organization, foreign central bank of issue, foreign tax-exempt organization, foreign private foundation, or government of a U.S. possession claiming that income is effectively connected U.S. income or that is claiming the applicability of section(s) 115(2), 501(c), 892, 895, or 1443(b) (unless claiming treaty benefits) (see instructions for other exceptions) W-8ECI or W-8EXP
- Any person acting as an intermediary (including a qualified intermediary acting as a qualified derivatives dealer) W-8IMY

Instead use Form:

Part I Identification of Beneficial Owner

1 Name of organization that is the beneficial owner	2 Country of incorporation or organization
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3 Name of disregarded entity receiving the payment (if applicable, see instructions)

4 Chapter 3 Status (entity type) (Must check one box only):

<input type="checkbox"/> Corporation	<input type="checkbox"/> Partnership
<input type="checkbox"/> Simple trust	<input type="checkbox"/> Tax-exempt organization
<input type="checkbox"/> Central Bank of Issue	<input type="checkbox"/> Private foundation
<input type="checkbox"/> Grantor trust	<input type="checkbox"/> Disregarded entity
<input type="checkbox"/> Estate	<input type="checkbox"/> Foreign Government - Controlled Entity
<input type="checkbox"/> International organization	<input type="checkbox"/> Foreign Government - Integral Part

If you entered disregarded entity, partnership, simple trust, or grantor trust above, is the entity a hybrid making a treaty claim? If "Yes," complete Part III. Yes No

5 Chapter 4 Status (FATCA status) (See instructions for details and complete the certification below for the entity's applicable status.)

<input type="checkbox"/> Nonparticipating FFI (including an FFI related to a Reporting IGA FFI other than a deemed-compliant FFI, participating FFI, or exempt beneficial owner). <input type="checkbox"/> Participating FFI. <input type="checkbox"/> Reporting Model 1 FFI. <input type="checkbox"/> Reporting Model 2 FFI. <input type="checkbox"/> Registered deemed-compliant FFI (other than a reporting Model 1 FFI, sponsored FFI, or nonreporting IGA FFI covered in Part XII). See instructions. <input type="checkbox"/> Sponsored FFI. Complete Part IV. <input type="checkbox"/> Certified deemed-compliant nonregistering local bank. Complete Part V. <input type="checkbox"/> Certified deemed-compliant FFI with only low-value accounts. Complete Part VI. <input type="checkbox"/> Certified deemed-compliant sponsored, closely held investment vehicle. Complete Part VII. <input type="checkbox"/> Certified deemed-compliant limited life debt investment entity. Complete Part VIII. <input type="checkbox"/> Certain investment entities that do not maintain financial accounts. Complete Part IX. <input type="checkbox"/> Owner-documented FFI. Complete Part X. <input type="checkbox"/> Restricted distributor. Complete Part XI.	<input type="checkbox"/> Nonreporting IGA FFI. Complete Part XII. <input type="checkbox"/> Foreign government, government of a U.S. possession, or foreign central bank of issue. Complete Part XIII. <input type="checkbox"/> International organization. Complete Part XIV. <input type="checkbox"/> Exempt retirement plans. Complete Part XV. <input type="checkbox"/> Entity wholly owned by exempt beneficial owners. Complete Part XVI. <input type="checkbox"/> Territory financial institution. Complete Part XVII. <input type="checkbox"/> Excepted nonfinancial group entity. Complete Part XVIII. <input type="checkbox"/> Excepted nonfinancial start-up company. Complete Part XIX. <input type="checkbox"/> Excepted nonfinancial entity in liquidation or bankruptcy. Complete Part XX. <input type="checkbox"/> 501(c) organization. Complete Part XXI. <input type="checkbox"/> Nonprofit organization. Complete Part XXII. <input type="checkbox"/> Publicly traded NFFE or NFFE affiliate of a publicly traded corporation. Complete Part XXIII. <input type="checkbox"/> Excepted territory NFFE. Complete Part XXIV. <input type="checkbox"/> Active NFFE. Complete Part XXV. <input type="checkbox"/> Passive NFFE. Complete Part XXVI. <input type="checkbox"/> Excepted inter-affiliate FFI. Complete Part XXVII. <input type="checkbox"/> Direct reporting NFFE. <input type="checkbox"/> Sponsored direct reporting NFFE. Complete Part XXVIII. <input type="checkbox"/> Account that is not a financial account.
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6 Permanent residence address (street, apt. or suite no., or rural route). **Do not use a P.O. box or in-care-of address** (other than a registered address).

City or town, state or province. Include postal code where appropriate.	Country
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7 Mailing address (if different from above)

City or town, state or province. Include postal code where appropriate.	Country
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