



**Request for Qualifications (RFQ)**  
**for**  
**PROFESSIONAL CONSULTING**  
**SERVICES: ECONOMIC ANALYSIS OF POWER SUPPLY**

**Q083-25**

**RFQ Due Date: September 3, 2025, 5:00 PM**

**RFQ Acknowledgement Date: September 4, 2025, 10:00 AM**

# LEGAL NOTICE AND REQUEST FOR QUALIFICATIONS

## Q083-25

The Brownsville Public Utilities Board (Brownsville PUB or BPUB) will accept sealed responses to this Request for Qualifications for Professional Consulting Services: Economic Analysis of Power Supply until **September 3, 2025, at 5:00 PM** in the Brownsville PUB Purchasing Office, 1155 FM 511, Olmito, Texas. **RFQs received after this time will not be considered.**

RFQ's will be publicly opened and the names of the Firms responding read aloud on September 4, 2025 at 10:00 AM. Firms can call at 10:00 AM on this date at (956) 214-6020 to listen to the RFQ acknowledgment.

Detailed specifications may be obtained at the following website: [https://www.brownsville-pub.com/RFQ\\_status/open/](https://www.brownsville-pub.com/RFQ_status/open/)

Please mark on the **outside of the envelope and on any carrier's envelope**: "RFQ FOR PROFESSIONAL CONSULTING SERVICES: ECONOMIC ANALYSIS OF POWER SUPPLY", Q083-25, September 3, 2025, 5:00 PM", and send to the attention of Diane Solitaire, Purchasing Department, 1155 FM 511, Olmito, Texas 78575.

The Brownsville PUB will not be responsible if the U.S. Postal Service or any other courier system fails to deliver the RFQ to the Brownsville PUB, Purchasing Office by the deadline above. **RFQs via electronic transmission and facsimile will not be accepted.**

The Brownsville PUB reserves the right to reject any or all RFQs and to waive irregularities contained therein, and to accept any RFQ(s) deemed most advantageous to the Brownsville PUB.

BY:

*Diane Solitaire*

Purchasing

Brownsville Public Utilities Board

(956) 983-6366 - Phone

**Please submit this page upon receipt**

## **ACKNOWLEDGEMENT FORM**

Q083-25 RFQ for Professional Consulting Services: Economic Analysis of Power Supply

For any clarifications, please contact Diane Solitaire at Brownsville PUB Purchasing Department at (956) 983-6366 or e-mail: [dsolitaire@brownsville-pub.com](mailto: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 want the RFQ package mailed, please provide a method of shipment with the account number in the space designated below.

Check one:

**Yes, I will be able to send a RFQ; obtained RFQ package from website.**

**Yes, I will be able to send a RFQ; please email the RFQ package.**

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

**No, I will not be able to send a RFQ for the following reason:**

\_\_\_\_\_

If you are unable to respond to this RFQ, kindly indicate your reason above and return this form **via email to:** [dsolitaire@brownsville-pub.com](mailto:dsolitaire@brownsville-pub.com). This will ensure you remain active on our vendors list.

Date \_\_\_\_\_

Firm: \_\_\_\_\_

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

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

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

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

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

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# **REQUEST FOR QUALIFICATIONS – PROFESSIONAL CONSULTING SERVICES: ECONOMIC ANALYSIS OF POWER SUPPLY**

## **Objective**

The Brownsville PUB seeks to have access to consultants with substantial experience in the areas of economic analysis of power generation assets within the Electric Reliability Council of Texas (ERCOT) market. Particular expertise is necessary in areas such as capital investments, operating costs, fuel sourcing, competitive power markets, decommissioning, power purchase agreements, and transmission congestion. Consultants should also be capable of evaluating jointly owned resource acquisitions and analyzing the cost-effectiveness of continued investment in existing assets.

## **General Background**

The City of Brownsville (“City”), located in Cameron County, along the Rio Grande River, approximately 23 miles from the Gulf of America, is a home rule city organized and existing under the laws of the state of Texas, including the City’s Charter, as amended (the “Charter”). The City owns a combined electric, water, and wastewater utilities system (collectively, the “system”) serving the City and certain areas outside the City. The City’s authority regarding public utility ownership and services is generally exercised through Brownsville PUB’s Board of Directors (the “Board”). The Brownsville PUB, created and established by Article VI of the Charter as a separate and distinct agency of the City, has the authority to control, manage, and operate the system. The Brownsville PUB employs approximately 642 employees. The Brownsville PUB fiscal year is the 12 months ending September 30<sup>th</sup> of each year and is referred to herein as the “fiscal year.”

The City Commission of the City of Brownsville appoints the directors as detailed below. The Board holds a regular meeting once a month, usually on the second Monday, and occasionally holds special meetings and workshops.

## **The Brownsville PUB System and Organization**

Brownsville PUB is a component unit of the City of Brownsville, Texas and is 92.91% participant of the Southmost Regional Water Authority (Authority). The Brownsville PUB was formed in 1960 to provide electrical, water, and wastewater services to its customers in the Brownsville area, and the Authority delivers treated water to various areas of the lower Cameron County. Under the City’s Charter, management, operation, and control of the City’s combined water, wastewater, and electric utilities system is delegated to the Brownsville PUB, and the Authority has a mutual agreement with the Brownsville PUB authorizing the Brownsville PUB to manage all accounting and reporting functions of the Authority. 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 located in Cameron County.

Brownsville PUB executive administration includes a General Manager/Chief Executive Officer, an Assistant General Manager/Chief Operations Officer, Chief Financial Officer, Chief Administrative Officer and a General Counsel and Chief Legal Officer who oversee specific divisions.

The Brownsville PUB Board is comprised of seven members, six of whom are appointed by the City Commission for four-year terms, and the seventh member is 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 Brownsville PUB employees and for administering all affairs of the Brownsville PUB.

The **Electric System** provides retail electric service through its electric facilities to consumers inside and outside the city limits. The electric system serves a growing base of about 54,122 non-municipal customers and serves a peak load of 317 MW. Current resources, consisting of Power Purchase Agreements and ownership in power plants, are sufficient to cover peak demand.

The Brownsville PUB 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 Brownsville PUB (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 fired capability of 115 MW), (ii) the operation of the Calpine/Hidalgo combined cycle Power Plant in which the Brownsville PUB has an ownership interest entitling it to 105 MW of capacity, (iii) a Power Purchase Agreement with Constellation Energy Corporation entitling the Brownsville PUB to purchase 78 MW of renewable 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.

Brownsville PUB owns 15 substations, and approximately 45.71 miles of transmission lines, 345 miles of overhead distribution lines, and 417 miles of underground distribution lines, which help provide electrical service to the City of Brownsville. As a municipally owned utility, BPUB strives to safely and reliably provide electric service to its customers that meets or exceeds the Public Utilities Commission of Texas system reliability standard. BPUB executes this charge by staffing highly trained and experienced operations personnel to make all reasonable efforts to prevent and restore interruptions of service. When interruptions do occur, BPUB personnel are committed to restoring electric service within the shortest possible time frame without compromising the safety of BPUB personnel.

The indices used to measure system reliability are the System Average Interruption Duration Index (SAIDI) and the System Average Interruption Frequency Index (SAIFI). The Customer Average Interruption Duration Index (CAIDI) can be calculated by taking the ratio of the aforementioned indices, which calculates the average time BPUB takes to restore electric service if and when a BPUB customer does experience an outage.

Key Electric Strategies include: 1) Resiliency - We prioritize electric infrastructure improvements, implement advanced technologies, such as smart meters, and design and build infrastructure to meet higher standards. 2) Reliability - We focus on improving our reliability indices by optimizing our electrical systems through data-driven strategies and decisions. 3) Safety - We promote a safe working environment by tracking and analyzing safety metrics and identifying areas for improvement. 4) Sustainability - We prioritize sustainable practices to ensure a reliable electric supply for future generations. 5) Planning - We provide engineering system studies, analysis, design, and project management for new loads and generation interconnection opportunities. 6) Innovation - We adopt industry-leading technologies and innovative solutions to provide reliable service. 7) Economic Growth - We enable economic growth by ensuring a reliable and sustainable electric supply for our community. 8) Data-Driven Decision-Making - We identify KPI metrics, produce data reports, analyze the data, and make effective decisions and recommend improvement projects. 9) Integrated Resource Plan - The Integrated Resource Plan (IRP) is a strategic initiative aimed at optimizing the energy resources and

infrastructure of BPUB. 10) Electric Cost of Service Study - We ensure that the electric rates charged to BPUB customers are fair, equitable, and reflective of the actual costs incurred by BPUB in providing electrical services.

The Brownsville PUB currently has a gas transportation agreement with Texas Gas Services Company ("TGS"), a division of ONE Gas, Inc. and a gas supply agreement with Tenaska Marketing Ventures ("TMV") for service to its Silas Ray Generation units, and a gas supply agreement with Calpine Energy Services, LP for service to its Calpine/Hidalgo Plant. Fuel and transportation contracts are in place, limiting the Brownsville PUB's exposure to the volatile fuel commodity markets.

The **Water System** draws raw water from the Rio Grande River. It consists of a river rock weir, a river pump station, two reservoirs providing a total capacity of 187 million gallons, and a raw water transport system. Surface water treatment is achieved by two water treatment plants providing 40 million gallons per day (MGD) of total capacity (20 MGD treatment capacity each). Two clear wells provide 6.84 million gallons of storage capacity, and three elevated storage tanks provide 5 million gallons of elevated storage capacity. Three high-service pumping stations pump water into the distribution system, which consists of 731 miles of transmission and distribution mains. The Brownsville PUB mainly sells to residential and commercial customers, but also sells treated water on a wholesale basis to three other water distribution companies, which account for approximately 5.63% of sales. The Brownsville PUB partnered with the Southmost Regional Water Authority (the Authority) and built a 7.5 million-gallon-per-day reverse osmosis water treatment plant, of which the Brownsville PUB has 92.91% ownership. The Authority's plant completed an expansion in November 2015 to provide microfiltration pretreatment and a total production capacity of up to 10 MGD. The Authority's plant includes a 7.5 million-gallon storage tank. Brownsville PUB is the operator for SRWA.

The Brownsville PUB has an annual allocation of municipal priority water rights from the Texas Commission on Environmental Quality (TCEQ) in the amount of 31,442.381 acre-feet of water, which is dependent upon inflow to the Falcon and Amistad Reservoirs.

The Rio Grande Watermaster is responsible for promoting the efficient use and optimum yield of U.S. share of water in the international reservoirs (e.g., 30 TAC § 303.16): "The watermaster will request releases from Amistad and Falcon Reservoirs for authorized domestic, municipal, industrial, irrigation, and other uses in such a manner which promotes the efficient use and optimum yield of the United States' share of water in the Amistad/Falcon System, consistent with the 1944 Treaty between the United States and Mexico."

As the last United States municipality drawing water from the Rio Grande, Water Use Permit No. 1838 authorizes Brownsville PUB to divert and use up to 40,000 acre-feet of storm, flood, and unappropriated public waters per year, for industrial and municipal purposes.

Brownsville PUB also has Water Permit No. 5259, authorizing the construction of the Brownsville-Matamoros Weir for the impoundment of 6,000 acre-feet of water. While the weir has not yet been approved for construction, the permit's reference to Water Permit No. 1838 further supports the public purposes that preserve water rights held at the reservoirs, benefitting all Texas users along the middle and lower Rio Grande.

Brownsville is dependent on waters from the Rio Grande Watershed for 72.0% of its water. Climate change has reduced inflows into Amistad by 33% and Falcon by 21.5% since the 1980s. As of March 1, 2025, the U.S. Combined Ownership at Amistad/Falcon was 21.4%. Under the 1944 Treaty, Mexico

has a water debt to the U.S. of > 1.1 million acre-feet in the current 5-year cycle. Mexico has only delivered its water requirements to the U.S. in three of the last six 5-year water cycles.

On November 19, 2024, Governor Greg Abbott directed the Texas Commission on Environmental Quality (TCEQ) to accept an offer of San Juan River water from Mexico under the 1944 Water Treaty and provide much-needed water to communities in the Rio Grande Valley. While the International Boundary and Water Commission took the position that the water from the San Juan River may be credited against Mexico's five-year treaty commitments, Texas stands firm in its position (consistent with the text of the Treaty) that those commitments may only be satisfied with water from the six named tributaries.

The Brownsville PUB is subject to regulation of water quality by the TCEQ. The Brownsville PUB presently has a "Superior" water system as determined under current TCEQ regulations.

The Brownsville PUB's water utility service area is subject to the certification jurisdiction of the TCEQ. The Brownsville PUB has been certified singly to provide water service within the boundaries of the City. A large portion of the area, three and one-half miles surrounding the boundaries (the "extraterritorial jurisdiction") of the City, is dually certified. There is a small water utility system (El Jardin Water Supply Corporation) whose customers are situated adjacent to or within the System. The Brownsville PUB's water system supplies all of its treated water.

BPUB is currently exploring new water source opportunities and funding, which includes the following projects. A) An Indirect Potable Reuse Project to convert effluent flow from a BPUB Wastewater Treatment Plant into an additional 8 MGD of potable water. An application has been submitted under the Department of the Interior Bureau of Reclamation Drought Response Program to fund this project. B) The optimization of the Southmost Regional Water Authority brackish groundwater treatment plant to increase production of the existing plant from 6.5 MGD to 10.0 MGD. An application has been submitted under the Department of the Interior Bureau of Reclamation Desalination Construction Project, and we have received a notice of award for approximately 50% of the amount requested. A separate application was also submitted under the Department of the Interior Bureau of Reclamation Drought Response Program for two new wells, one component of the larger Optimization program. C) The expansion of the Southmost Regional Water Authority's brackish groundwater treatment plant to double production capacity from the optimized 10 MGD to 20 MGD. We are researching funding avenues, but no applications have been submitted.

BPUB's Key Water Strategies include: 1) Sustainability - we prioritize sustainable practices to ensure a reliable water supply for future generations. 2) Innovation - We adopt industry-leading technologies and innovative solutions to recycle and reuse water, promoting efficiency and sustainability. 3) Collaboration - We actively participate in and lead regional efforts to address water strategies, fostering collaboration and shared solutions. 4) Transparency - We communicate openly and transparently with our customers to build trust and keep them informed. 5) Customer Involvement - We involve our customers in our water solutions, encouraging community engagement and support. 6) Proactive Maintenance - We protect our investments with proactive maintenance to extend the lifespan and functionality of our water systems. 7) Environmental Stewardship - We are committed to protecting and enhancing the environment through responsible water management practices. 8) Economic Growth - We enable economic growth by ensuring a reliable and sustainable water supply for our community. 9) Data-Driven Decision-Making - We utilize data-driven decision-making in our water strategies to make informed and effective choices.

The **Wastewater System**, consisting of collection and treatment facilities, includes gravity wastewater collection lines, 177 pumping/lift stations, and two treatment plants. Wastewater is transported by pumping stations and associated force mains to one of two wastewater treatment plants – the Robindale Plant or the South Plant. The Robindale Plant was designed to treat 5 MGD in 1980 and expanded to a capacity of 10 MGD in 1995. The Robindale renovation and expansion project, completed in July 2014, increased the treatment capacity to 14.5 MGD. The Robindale Plant provides secondary waste treatment utilizing a Modified Ludzack-Ettinger (MLE) process (anoxic and aerobic with an internal nitrate cycle) of activated sludge, turbo blowers (with magnetic bearings) with auto dissolved oxygen control, secondary settling, ultra-violet light system (as alternate source of disinfection), effluent cascade aeration system, sludge thickening, aerobic digestion, mechanical sludge dewatering (via 2-meter belt filter press), a SCADA (Supervisory Control and Data Acquisition) system, and sludge disposal at a Dedicated Land Disposal (DLD) site of 137 Acres. The South Plant was initially constructed in 1952, with a trickling filter process and anaerobic digestion plant design with a treatment capacity of 5 MGD. South Plant was modified in 1974 with significant modifications in 1978 when it was expanded to a capacity of 7.8 MGD and the treatment process design was changed to a variation of activated sludge identified as complete-mix process and anaerobic digesters were converted to aerobic digesters. In 2000, the plant was expanded to 12.8 MGD. The treatment process was changed to a complete mix activated sludge, and the anaerobic digesters were converted to use the aerobic process. Sludge is thickened, dewatered by a belt filter press, and disposed of at the City of Brownsville Solid Waste Landfill.

The wastewater system is subject to regulation by the EPA and the TCEQ with regard to operations of the facilities and the water quality of the wastewater plants' effluent.

The Brownsville PUB has the authority to provide wastewater service both inside and outside the city limits. The Brownsville Navigation District owns and operates its wastewater treatment facilities. There is no competition between the Brownsville PUB's wastewater system and the Brownsville Navigation District since the Brownsville Navigation District operates in defined areas in which the System has no wastewater lines.

The Brownsville PUB's current electric, water, and wastewater capital improvement plan identifies projects for five years ending September 30, 2029. The electric capital improvement plan identifies approximately \$101.1 million in generation, transmission, distribution, and general facilities projects, of which \$29.0 million are projected to be debt financed. The water capital improvement plan identifies approximately \$72.8 million in projects, of which approximately 22.2% are projected to be debt financed, while the wastewater capital improvement plan identifies approximately \$59.1 million in projects, of which approximately 27.1% are projected to be debt financed.

The **Resaca Restoration Program**, launched in early 2013, aims to improve water circulation, assist with flood conditions, enhance water quality, and support ecological improvements. With over 50 miles of resaca and an estimated 4,045,000 cubic yards of sediment to be removed, restoration work is ongoing.

Historically, resaca operations were funded by water rates. In 2022, BPUB conducted a cost-of-service study, leading to the introduction of the Resaca Fee. Initially set at \$4.50 per month, it was planned to increase to \$6.25 in 2023, \$10 in 2024, and \$12 in 2026. However, in September 2023, BPUB recommended maintaining the fee at \$6.25, which the City Commission agreed to on November 13, 2023.

The Resaca Fee is crucial for maintaining and restoring Brownsville's resacas, funding projects that enhance water storage, reduce flood risks, restore ecosystems, and create recreational spaces.

The fee supports ongoing dredging efforts, such as those at Resaca de la Guerra, to increase raw water storage for Water Plant 2, ensuring a reliable water supply. Dredged resacas capture more rainwater and include the RESTORE Act Town Resaca Watershed Project, which removes sediment and stabilizes banks to protect areas from flooding.

Additionally, the Resaca Fee contributes to ecosystem restoration projects, such as removing invasive vegetation and planting native species along the Resaca de la Guerra riparian corridor. These efforts improve habitats for federally protected species, like turtles and migratory birds.

The fee ensures long-term sustainability by supporting a 75-year maintenance plan, guaranteeing the resacas remain healthy and functional for future generations.

The Brownsville PUB has an authorized commercial paper program for the Combined Utility Systems of \$100 million in tax-exempt and taxable commercial paper.

## **Scope of Services**

The scope of services the selected Firm will perform may include, but not limited to, the following:

1. Receive general direction from the BPUB General Manager & CEO, and/or appointed designee.
2. Evaluate the historical performance of specified generation assets in the ERCOT market.
3. Analyze revenue streams, including energy and ancillary services.
4. Assess operational efficiency, availability, and dispatch patterns.
5. Develop financial models to simulate asset performance under various market scenarios (e.g., high/low demand, fuel price volatility, regulatory changes).
6. Estimate future revenue potential and cost structures.
7. Conduct sensitivity analysis on key variables (e.g., heat rate, fuel cost, nodal pricing).
8. Review current and anticipated ERCOT market rules, protocols, and regulatory developments.
9. Identify potential impacts on asset economics and market participation strategies for owned or contracted assets.
10. Provide actionable insights and recommendations for asset optimization, reinvestment or retirement analysis, acquisition evaluation and risk mitigation approaches.

## **General Requirements**

All RFQ envelopes shall contain one (1) signed original and four (4) copies of the submittal, including any supplemental printed material referenced with the RFQ shall be included. The original RFQ will be opened, and only the Firm's name will be read aloud at the Brownsville PUB Purchasing Office at 1155 FM 511, Olmito, TX. Brownsville PUB will manage all RFQs to avoid disclosing the contents to competing Firms and keep the RFQs confidential during negotiations. All RFQs will be open for public inspection, as stated in the Texas Public Information Act, after the contract is awarded; however, trade secrets and confidential commercial or financial information in the RFQs identified explicitly by the

Firms will not be open for public inspection. Accordingly, all pages in the RFQ that the Firm considers proprietary and confidential should be appropriately marked.

Direct any questions to Diane Solitaire, Purchasing; email: [dsolitaire@brownsville-pub.com](mailto:dsolitaire@brownsville-pub.com); phone: (956) 983-6366.

Firms must guarantee their Original RFQ or subsequently clarified RFQ for at least ninety (90) days from the Original RFQ opening date. The Brownsville PUB may require written clarifications and explanations of Firm RFQs after Original RFQ submissions, particularly when specific candidates have been selected for interviews (if applicable), to obtain the best and final offer. The Brownsville PUB will not be liable for any of the Firm's costs or expenses incurred in preparing or presenting the RFQ(s). The Brownsville PUB also reserves the right to conduct a pre-award survey or to require other evidence of managerial, financial, or other abilities before the award of the contract.

The Brownsville PUB will follow all procurement procedures as contained in State law and BPUB policies and procedures.

Discussions may be conducted with the top-rated Firm(s) at Brownsville PUB's discretion to ensure that the award is made to the Firm whose RFQ best meets the needs of the Brownsville PUB. After the meeting(s), five (5) working days will allow the Firm(s) to submit all requested additional information and explanations in writing, which shall be deemed a part of their final offer. The Firm(s) shall submit any revised clarifications and explanations. The Firm(s) shall be treated fairly and equally to any and all opportunities for discussion, clarification, and explanation of RFQs.

### **Contract with Firm Indebted to BPUB**

Brownsville PUB policy is to refuse to enter into a contract or other transaction with an individual, sole proprietorship, joint venture, Limited Liability Company, or other entity indebted to Brownsville PUB.

### **Firm Representative**

The successful Firm agrees to send a personal representative with binding authority for the Firm to the Brownsville PUB upon request to adjust and/or assist with coordinating all transactions as needed.

### **Firm Automated Clearing House (ACH) Direct Deposit Services**

The Brownsville PUB has implemented a payment service by depositing the payment directly into a Firm's bank account. Successful Firm(s) will be required to receive payments directly through Automated Clearing House (ACH) in lieu of a paper check. The awarded Firm must agree to accept payments via ACH (direct deposit).

### **Tax Identification Number (TIN)**

Under IRS Publication 1220, a W9 form, or a W8 form in cases of a foreign firm, will be required of all Firms doing business with the Brownsville PUB. If a W9 or W8 form is not made available to Brownsville PUB, the first payment will be subject to income tax withholding depending on the U.S. status and the source of income as per IRS Publication 1220. The W9 or W8 form must be included with the RFQ response. Attached are sample forms.

## **Taxes**

The Brownsville PUB is exempt from Federal Excise, State Sales, and Local taxes. Do not include tax in the RFQ. If it is determined that tax was included in the RFQ, it will not be included in the tabulation or any awards. Tax exemption certificates will be furnished upon request.

## **Signing of RFQ**

Failure to sign the RFQ will disqualify it. The person signing the RFQ should show the title or authority to bind their Firm to a contract.

## **Equal Employment Opportunity Commission Guidelines**

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.

## **Contract**

The services shall be performed in Brownsville, Texas, or at the Firm's principal location. A Professional Consulting and Technical Services contract for the services will be placed into effect after evaluation and final approval by the Board.

## **Brownsville PUB Rights**

1. Brownsville PUB has the right to reject, re-submit, accept, and/or extend the RFQ by up to an additional two (2) weeks from the original submission date if only one or no RFQ is received by the "submission date."
2. Brownsville PUB has the right to reject any/all RFQs and award those that appear advantageous to it.
3. Brownsville PUB has the right to hold RFQs ninety (90) days from the submission date without action and waive all RFQ formalities.
4. Brownsville PUB has the right to extend the total RFQ beyond the original 90-day period before an award if agreed upon in writing by all parties (Brownsville PUB and Firm) and if the Firm holds the original RFQ firm.
5. Brownsville PUB has the right to terminate for cause or convenience all or any part of the unfinished portion of the Project resulting from this solicitation within Thirty (30) calendar days written notice; for cause: upon default by the Firm, for delay or non-performance by the Firm; or if it is deemed in the best interest of the Brownsville PUB for Brownsville PUB's convenience.
6. Brownsville PUB has the right to increase or decrease quantities. In response, stipulate whether increasing or decreasing services will affect the price.
7. Brownsville PUB has the right to refuse to enter into a contract or other transaction with any individual or entity indebted to the municipality as per Texas Local Government Code Sec. 252.0436.

## **Corrections**

Any interpretation, correction, or change to the RFQ will be made by ADDENDUM. The Brownsville PUB Purchasing Department will issue changes or corrections. The addenda will be emailed to all who have returned the RFQ Acknowledgement form. The addenda will be issued as expeditiously as possible. It is the responsibility of the Firms to determine whether all addenda have been received. All Firms will be responsible for contacting the Brownsville PUB before submitting a response to the RFQ to ascertain if any addenda have been issued. To obtain any or all addenda, execute them, and return the addenda with the response to the RFQ. The addenda may also be posted on Brownsville PUB's webpage.

## **Unauthorized Communications**

No officer, employee, agent, or representative of the Firm shall have any contact or discussion, verbal or written, with any members of the Brownsville PUB Board of Directors, members of the RFQ evaluation, interview, or selection panels, Brownsville PUB staff, or directly or indirectly through others, seek to influence any Brownsville PUB Board member, Brownsville PUB staff regarding any matters pertaining to this solicitation, except as herein provided. If a representative of any Firm violates the foregoing prohibition by contacting any of the above-listed parties with whom contact is not authorized, such contact may result in the Firm being disqualified from the procurement process. Any oral communications are considered unofficial and non-binding concerning this RFQ.

## **Insurance**

Brownsville PUB, in its sole discretion, may require, at the Firm's expense, certain insurance guaranteeing performance and payment of the services to be provided hereunder and may require, at the Firm's expense, to maintain in force certain types of insurance during the duration of the contract period. Insurance must be underwritten by companies acceptable to Brownsville PUB and authorized to do business in the State of Texas. True and correct copies must be filed with Brownsville PUB before the commencement of performing service hereunder.

1. The Firm agrees to maintain Worker's Compensation Insurance and Employers' Liability Insurance to cover all of its personnel engaged in performing services for Brownsville PUB under this Contract in the following amounts:

Workmen's Compensation – Statutory

Employers' Liability -- \$100,000.00

2. Firm also agrees to maintain Commercial General Liability, Business Automobile Liability, and Umbrella Liability Insurance covering claims against Firm for damages resulting from bodily injury, death, or property damages from accidents arising in the course of work performed under this Contract in the following amounts:

Commercial General Liability

Personal injury and property damage –

\$1,000,000.00 combined single limit for each occurrence and

\$1,000,000.00 aggregate

Business Automobile Liability for all vehicles:

Bodily injury and property damage –

\$500,000.00 combined single limit for each accident

Excess Umbrella Liability:

\$1,000,000.00

3. The Firm shall add the Brownsville PUB and the City of Brownsville, together with their respective Commissioners, Board Members, and employees, as additional insureds on all required insurance policies, except workers' compensation/employer's liability insurance. The insurance certificate(s) shall provide for thirty (30) calendar days advance notice to Brownsville PUB of any policy cancellation. The Commercial General Liability and Excess Umbrella Liability Policy shall be an "occurrence" type policy. The Commercial General Liability shall also include protection against claims insured by usual personal injury liability coverage and coverage for contractual liability assumed by the Firm.
4. The Firm shall furnish Brownsville PUB with an Insurance Certificate(s) at least ten (10) calendar days before fieldwork commences, which confirms that all required insurance policies are in full force and effect.
5. Brownsville PUB and the Firm waive all rights against each other and their officers, directors, agents, or employees for damage covered by any Brownsville PUB or construction contractor property insurance in effect during and after the completion of the Firm's services.

### **Rights to Submitted Materials**

All RFQs and materials submitted to the Brownsville PUB by a Firm in response to this RFQ shall become the property of the Brownsville PUB after the RFQ submission deadline. The Brownsville PUB's return of the RFQ/material will be subject to the requirements of the laws of the State of Texas.

The Firm acknowledges and agrees that all records, documents, drawings, plans, specifications, and other materials it provides in response to this RFQ are subject to the provisions of the Public Information Act, Texas Government Code, Chapter 552. If the Firm believes information or materials submitted to Brownsville PUB constitute trade secrets, proprietary information, or other information that is excepted from disclosure under the Public Information Act, the Firm shall be solely responsible for specifically and conspicuously designating that information by placing "CONFIDENTIAL" in the center header of each such page affected, as it determines to be appropriate. Should a request for information be made, Brownsville PUB shall provide notice of such request to affected respondents, who will then have an opportunity to file an objection to disclosure. Brownsville PUB may or may not also assert a claim for confidentiality of the information as permitted under Chapter 552.

### **Confidentiality and Non-Disclosure Agreement (NDA)**

If and when a Firm becomes Shortlisted, the Firm must execute the version of a Confidentiality and Non-Disclosure Agreement ("NDA") before discussions with Brownsville PUB. A draft form of the NDA is attached to this RFQ for review. Brownsville PUB expects to execute an NDA substantially similar to the draft form NDA provided. Failure by the Firm to negotiate requested changes to the NDA (if any) with Brownsville PUB and gain execution of the NDA by both parties may disqualify the Firm

Q083-25 RFQ for Professional Consulting Services: Economic Analysis of Power Supply

from further participation in the Solicitation. Brownsville PUB may require additional confidentiality obligations with collaborating entities, depending upon the NDA submitted.

### **RFQ is Not a Basis for Obligations**

This request for competitive RFQs does not constitute an offer to contract and does not commit the Brownsville PUB to award a contract to anyone or to pay any costs incurred in preparing and submitting RFQs. The Brownsville PUB reserves the right to reject any or all RFQs that do not conform to the requirements stated in this document. The Brownsville PUB also reserves the right to cancel all or part of this request for RFQs for any reason determined by the Brownsville PUB to be in the best interest of its customers.

## Instructions for Submission

Brownsville PUB is requesting one (1) signed original and four (4) copies of the RFQ to be enclosed in a sealed envelope and plainly marked on the outside of the envelope or any carrier's envelope: "RFQ FOR PROFESSIONAL CONSULTING SERVICES: ECONOMIC ANALYSIS OF POWER SUPPLY, Q083-25, September 3, 2025, 5:00 PM", mailed, sent by overnight courier, or hand delivered to the attention of:

Brownsville Public Utilities Board  
Attention: Diane Solitaire  
Purchasing Department  
1155 FM 511  
Olmiteo, TX 78575

No RFQ will be accepted after 5:00 PM on the date the RFQ is due.

## RFQ Timeline

RFQ SUBMISSION TIMELINE	
TARGET DATE	DESCRIPTION OF EVENTS
August 18, 2025	RFQ package distributed to prospective firms
August 27, 2025	Last day to submit questions and clarifications by 5:00 PM
September 3, 2025	<b>Responses are due by 5:00 PM at the Brownsville PUB Purchasing Office</b>
September 4, 2025	RFQ acknowledgement at 10:00 AM
TBD	Oral Board Presentations (if any)
TBD	Evaluation Finalized
TBD	Brownsville PUB Board Consideration of Award

## RFQ Submission Requirements

The proposing Firm is responsible for providing all required information, including attachments. No information beyond that specifically requested is needed, and the proposing Firms are asked to keep their submissions to the shortest length and consistent with the requirements. Unless otherwise indicated, an RFQ that does not provide all the information requested below may be rejected.

All RFQs must be:

1. Clearly legible;
2. Sequentially page-numbered and include the proposing Firm's name at the top of each page;
3. Organized in the sequence outlined following the Table of Contents as listed in the RFQ format;
4. Correctly identified with the RFQ number and submittal deadline; responsive to all RFQ requirements;
5. Printable on 8½ by 11 paper;
6. In Arial or Times New Roman font, size 12 for normal text, no less than size 10 for tables, graphs, and appendices; bound
7. RFQs may not include materials or pamphlets not specifically requested in this RFQ.
8. One (1) signed original and four (4) copies of the RFQ to be enclosed in a sealed envelope and plainly marked on the outside of the envelope or any carrier's envelope, the RFQ number and name and Firm name.

The RFQs must follow all formats and address all portions of the RFQ, providing all requested information.

## **RFQ Format**

A Firm wishing to be considered for the consulting engagement is requested to submit on the Firm's letterhead a statement that provides information on the following points, numbered and headed as indicated.

1. Cover Letter: A brief introduction of your Firm, a summary of qualifications and interest, including any recent experience assisting ERCOT entities with resource valuation, cost-effectiveness assessments, or acquisitions support, and the RFQ signed by a person authorized to bind the Firm.
2. Table of Contents
3. Executive Summary: An RFQ overview highlighting key points and benefits.
4. 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 economic and power supply consulting services to ERCOT market participants.
  - c. Organization of the Firm, including a discussion of any recent or proposed changes in management or ownership.

## 5. Qualifications of Firm

- a. Include in this discussion a list of at least five ERCOT participant clients, including name and phone number, which the Firm and the representative assigned to the Brownsville PUB have served in the capacity of consultant during the past five years.
- b. Discuss the Firm's approach in assisting ERCOT participant clients.
- c. Discuss the Firm's capabilities to provide the scope of services, including economic valuation of generation assets, reinvestment analysis, and support for asset acquisition decisions
- d. Identify the specific individuals who will be assigned to the Brownsville PUB engagement, and provide brief resumes for each highlighting their experience with similar ERCOT participant clients, particularly in asset valuation, cost analysis, or resource acquisition, and Brownsville PUB experience, if any. Indicate each individual's role relative to the Brownsville PUB's engagement. Also, indicate each individual's availability and the minimum notice required by the Firm to guarantee availability.
- e. Identify and discuss any potential conflicts of interest, including those dealing with other ERCOT participants.
- f. Evidence of professional liability (E&O) policy with a minimum limit of \$1,000,000.

## 6. References

- a. Client References: At least three references from similar engagements, including contact information and a brief description of the engagements.
- b. Testimonials: Any testimonials or feedback from previous clients.

## 7. Fee Schedule

- a. Provide hourly or daily rates for assigned employees capable of performing the tasks identified in the scope of services. List any estimated out-of-pocket expenses to be paid by the Brownsville PUB for site visits by the proposed engagement team that last three working days. Explain how your Firm controls out-of-pocket expenses.
- b. Provide alternative pricing, if available, such as tiered pricing based on level of effort, weekly rates, or performance-based pricing.

## 8. Compliance and Certifications

- a. Regulatory Compliance: Evidence of compliance with relevant regulations and standards.

- b. Certifications: Any relevant certifications or accreditations.
- c. Identification of Exceptions to Terms and Conditions:
  - i. Firms must list each exception, referencing the specific section and clause of contract attached to this RFQ. Firms shall provide a detailed explanation, including the rationale for the exception and any proposed alternative language. All exceptions must be submitted as a separate document titled “Exceptions to Terms and Conditions” and included with the RFQ submission.
- d. Identification of Exceptions to the Confidentiality and Non-Disclosure Agreement (NDA)
  - i. Firms must list each exception, referencing the specific section and clause of the NDA attached to this RFQ. Firms shall provide a detailed explanation, including the rationale for the exception and any proposed alternative language. All exceptions must be submitted as a separate document titled “Exceptions to the NDA” and included with the RFQ submission.
- e. Required Forms: Completed forms as specified in the RFQ, such as the Acknowledgement Form, Debarment Certificate, Ethics Statement, Conflict of Interest Questionnaire, W9 and/or W8 Form, Residence Certification Form, House Bill 89 Form, and Senate Bill 252 Form.

#### 9. Additional Information

- a. Any additional information that the firm believes would be beneficial for Brownsville PUB to consider when evaluating the RFQ.

### **Reference Checks**

The Brownsville PUB will contact prospective Firm’s references by email or telephone.

### **Criteria for Selection**

All responses must be completed, and all of the information requested must be conveyed to be considered responsive. If a Firm’s RFQ fails to conform to the submission requirements of the RFQ, Brownsville PUB will solely decide if the variance is insignificant enough to make the response potentially acceptable and thus eligible for further consideration. If the variance is deemed significant, the response will not be considered for an award. The evaluation process and award determination will be based solely on the information provided in the RFQ, subsequent discussions, and written clarifications. RFQs will be evaluated by a review panel based on the criteria listed below. Selected Firms may be required to present to the BPUB’s Board of Directors without compensation for those efforts.

The Brownsville PUB reserves the right to request additional information or to meet with representatives from Firms to discuss elements in the RFQ before and after submission, any and all of which may be used in forming a recommendation.

- a. Experience and Expertise

- Demonstrated experience in economic analysis of generation assets within the ERCOT market.
- Proven expertise in ERCOT market dynamics and generation resources.
- Qualifications and relevant experience of key project personnel.

b. Approach and Understanding

- Clear understanding of BPUB's needs, including generation asset economics and ERCOT participation strategy.
- Well-defined methodologies and tools proposed for economic consulting services.

c. Performance and References

- Strong client references from similar projects.
- Positive track record based on past performance and client feedback.
- Documented success stories with ERCOT participants and Resource Entities.

d. Exceptions to the Terms and Conditions and NDA

## REQUIRED FORMS CHECKLIST

The following documents are to be submitted as a part of the RFQ response process.

NAME	FORM DESCRIPTION	SUBMITTED	
		YES	NO
Required Forms (if applicable)	Acknowledgment Form	<input type="checkbox"/>	<input type="checkbox"/>
	Debarment Certificate	<input type="checkbox"/>	<input type="checkbox"/>
	Ethics 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 Firm)	<input type="checkbox"/>	<input type="checkbox"/>
	Residence Certification Form	<input type="checkbox"/>	<input type="checkbox"/>
	House Bill 89 Form	<input type="checkbox"/>	<input type="checkbox"/>
	Senate Bill 252 Form	<input type="checkbox"/>	<input type="checkbox"/>
References	Complete the Previous Customer Reference Worksheet for each reference provided	<input type="checkbox"/>	<input type="checkbox"/>
Addenda		<input type="checkbox"/>	<input type="checkbox"/>

# CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

This Confidentiality and Nondisclosure Agreement (this "Agreement"), dated \_\_\_\_\_ (month) \_\_\_\_\_ (day) 20\_\_ (the "Effective Date"), is entered into between Public Utilities Board of the City of Brownsville, Texas ("Party"), a municipal corporation with offices at 1425 Robinhood Drive, Brownsville, Texas 78521, and [FIRM Name], with offices at [Address], (collectively the "Parties").

## **Background Statement**

The Parties wish to exchange information, to hold confidential discussions, and possibly to engage in negotiations in connection with a potential business transaction at the [FIRM Name], facility in [City, State], (the "Potential Transaction"). The Parties anticipate that they will be disclosing, receiving, reviewing, and analyzing oral and written information with respect to the Potential Transaction that is confidential, proprietary, or otherwise not publicly available. The Party disclosing information is referred to herein as the "Disclosing Party." The Party receiving information is referred to herein as the "Receiving Party." In consideration of the business discussions, disclosure of Confidential Information, and any future business relationship between the parties, the Parties have entered into this Agreement to establish terms and conditions applicable to the exchange of Confidential Information in connection with the Potential Transaction.

## **Agreement**

1. **Non-disclosure of Confidential Information.** Receiving Party shall not disclose the Confidential Information to any person other than as expressly permitted by this Agreement, and shall take all reasonable measures to preserve the confidentiality and avoid the unauthorized disclosure of the Disclosing Party's Confidential Information, including but not limited to those steps taken with respect to the Receiving Party's own Confidential Information of like importance. Confidential Information may, however, be disclosed by Receiving Party to its directors, officers, employees, attorneys and consultants (collectively, "Representatives"), but only if such Representatives (i) need to know the Confidential Information in connection with evaluating the Potential Transaction, and (ii) such Representatives are informed by Receiving Party of the confidential nature of the Confidential Information and agree to be bound in writing to Receiving Party by confidentiality obligations at a minimum as restrictive as the terms of this Agreement. Receiving Party shall use the Confidential Information solely for the purpose of its internal evaluation of the Potential Transaction. For purposes of this Agreement, "person" shall be broadly interpreted to include the media, any corporation, company, partnership, group, individual and any governmental representative or authority. Notwithstanding the disclosure of the Confidential Information to the Representatives, Receiving Party shall remain liable for any breach of this Agreement by such Representatives. Receiving Party shall not remove any proprietary, copyright, trade secret, or other proprietary rights legends from any form of received Confidential Information.

2. **Notice Preceding Required Disclosure.** If Receiving Party or its Representatives are requested or required (by oral question, interrogatories, requests for information or documents, subpoena, civil investigative demand, regulatory proceedings, stock exchange rules, audit requirements, or other applicable rules or regulations or similar process) to disclose any Confidential Information, Receiving Party, to the extent permitted by law, shall promptly notify Disclosing Party

of such request or requirement and use commercially reasonable efforts to assist Disclosing Party so that it either may seek, at Disclosing Party's expense, an appropriate protective order or waive compliance with this Agreement. If, in the absence of a protective order or the receipt of a waiver under this Agreement, Receiving Party or its Representatives are, in the opinion of outside legal counsel, required to disclose the Confidential Information or else stand liable for contempt or suffer other censure or penalty, Receiving Party and its Representatives may disclose, without liability thereunder, only such of the Confidential Information to the party requiring disclosure as, in the opinion of its outside legal counsel, is required by applicable law, rule or regulation and, in connection with such disclosure, Receiving Party and its Representatives shall use reasonable efforts to obtain from the third party to whom disclosure is made written assurance that confidential treatment will be accorded to such portion of the Confidential Information as is disclosed.

3. Definition of “Confidential Information.” As used in this Agreement, “Confidential Information” means (1) all oral and written information that is furnished to Receiving Party or its Representatives by Disclosing Party, (2) the name of the Disclosing Party and its partners or co-venturers, affiliates, and subsidiaries, (3) the fact that Confidential Information has been made available to the Receiving Party, and (4) the fact that information is being exchanged and discussions and negotiations concerning the Potential Transaction are taking place. Proprietary and intellectual property disclosed by the Disclosing Party shall remain the sole and absolute property of the Disclosing Party. No right in, or license under, any present or future proprietary or intellectual information, trade secret, invention, patent, copyright, mask work, trade name, or trademark is either offered or granted by execution of this Agreement. Any information furnished to Receiving Party or its Representatives by a director, officer, employee, stockholder, partner, co-venturer, consultant, agent, or representative of Disclosing Party will be deemed furnished by Disclosing Party for the purpose of this Agreement. Notwithstanding the foregoing, the following does not constitute Confidential Information for purposes of this Agreement: (i) information that is or becomes publicly available other than as a result of a disclosure by Receiving Party or its Representatives; (ii) information that was already known to Receiving Party on a non-confidential basis prior to being furnished to Receiving Party by Disclosing Party; (iii) information that becomes available to Receiving Party on a non-confidential basis from a source other than Disclosing Party or a representative of Disclosing Party if such source, to Receiving Party's knowledge, is neither subject to any prohibition against transmitting the information to Receiving Party nor bound by a confidentiality agreement with Disclosing Party; and (iv) information that is independently developed by Receiving Party or its Representatives without use of or reference to Confidential Information.

4. Return of Information. At any time during or after the term of this Agreement, at the Disclosing Party's request, the Receiving Party and its Representatives shall promptly return to the Disclosing Party all copies, whether in written, electronic, or other form or media, of the Disclosing Party's Confidential Information, or destroy all such copies and certify in writing to the Disclosing Party that such Confidential Information has been destroyed. In addition, the Receiving Party and its Representatives shall also destroy all copies of any drafts, notes, compilations, studies, synopses, or summaries of Confidential Information, or any other document prepared by or for Disclosing Party and certify in writing to the Disclosing Party that such copies have been destroyed. Notwithstanding the foregoing, the Receiving Party shall not be obligated to destroy electronically stored Confidential Information to the extent that it is contained in an archived computer system backup in accordance with its security and/or disaster recovery procedures so long as such data or records, to the extent not permanently deleted or overwritten in the ordinary course of business, are not accessible in the ordinary course of business or used except as required for backup or data recovery purposes.

5. No Waiver. No failure or delay in exercising any right, power, or privilege hereunder will operate as a waiver thereof, nor will any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power, or privilege hereunder.

6. Remedies. Because money damages may not be a sufficient remedy for a breach of this Agreement by Receiving Party or its Representatives, Disclosing Party shall be entitled to specific performance and temporary and permanent injunctive relief as remedies for any such breach or threatened breach without the necessity of proving actual damages. Such remedies will not be deemed to be the exclusive remedies for a breach of this Agreement by Receiving Party or any of its Representatives but will be in addition to all other remedies available to Disclosing Party at law or in equity. A Receiving Party, however, shall not be liable for any special or consequential damages, as defined by the laws of the State of Texas, which result from breach of this Agreement by the Receiving Party, or its representatives.

7. Term. Following execution of this Agreement by the Parties, the term of this Agreement shall commence with the date first above written and shall terminate on the date that is two (2) years thereafter, unless terminated earlier by mutual agreement of the Parties, provided that with respect to Confidential Information that constitutes a trade secret under the Texas Uniform Trade Secrets Act, including any amendments thereto or successor thereof, the rights and obligations contained herein shall survive such expiration or termination until, if ever, such Confidential Information loses its trade secret protection other than due to an act or omission of the Receiving Party or its Representatives. This Agreement shall survive termination of any discussions between the Parties, the return or destruction of Confidential Information, or any termination of any other agreement, whether in effect prior to or after the date of this Agreement.

8. No Obligation or Joint Venture. The Parties hereto understand and agree that unless and until a binding definitive agreement for the Potential Transaction (following exchange of Confidential Information) has been executed and delivered by the Parties, no contract or agreement providing for the Potential Transaction among the Parties shall be deemed to exist among the Parties, and no Party will be under any legal obligation of any kind whatsoever with respect to such transaction by virtue of this or any written or oral expression thereof, except, in the case of this Agreement, for the matters specifically agreed to herein. This Agreement neither obligates a Party to deal exclusively with another Party nor prevents a Party or any of its affiliates from competing with another Party or any of its affiliates. Disclosing Party is not making any representation or warranty as to the accuracy, validity, or completeness of Confidential Information, and Disclosing Party shall not be liable to another party as a result of another party's use of Confidential Information, and such Confidential Information is provided "as is."

9. No Assignment; Successors. Receiving Party may not assign all or any part of this Agreement without Disclosing Party's prior written consent. Any assignment in violation of this Agreement shall be null and void *ab initio*. This Agreement inures to the benefit of the Parties hereto and their successors and permitted assigns and is binding on each other and each other's successors and permitted assigns.

10. Governing Law. THIS AGREEMENT WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, WITHOUT GIVING EFFECT TO THE PRINCIPLES OF CONFLICT OF LAWS THEREOF THAT WOULD OTHERWISE DIRECT THE APPLICATION OF THE LAWS OF A DIFFERENT JURISDICTION.

11. Jurisdiction and Venue. The Parties agree that venue for any litigation arising from any dispute or claims under the Agreement shall lie in a court of competent jurisdiction situated in Cameron County, Texas.

12. Entire Agreement; Headings. This Agreement constitutes the entire agreement among the Parties with respect to the subject matter hereof. The headings of the Sections of this Agreement are inserted for convenience only and do not constitute a part hereof or affect in any way the meaning or interpretation of this Agreement.

13. Savings Clause. If any provision of this Agreement or the application thereof to any person, place, or circumstance shall be held by a court of competent jurisdiction to be invalid, unenforceable, or void, the remainder of the Agreement and such provisions as applied to other persons, places, and circumstances shall remain in full force and effect.

14. Attorney's Fees. In the event any action, including arbitration, is brought to enforce any provision of this Agreement, or to declare a breach of this Agreement, the prevailing party shall be entitled to recover, in addition to any other amounts awarded, reasonable legal and other related costs and expenses, including attorney's fees incurred thereby.

15. No Implied Licenses. Nothing in this Agreement will be construed as granting any rights to Receiving Party, by license or otherwise, to any of Disclosing Party's Confidential Information, except as specifically stated in this Agreement.

16. Public Information Requests. Disclosing Party recognizes that Recipient is a political subdivision of the State of Texas, and as such is subject to the Texas Public Information Act ("TPIA"). Recipient agrees that it will treat any Confidential Information received from Disclosing Party as commercial or financial information exempt from disclosure pursuant to § 552.110 of the TPIA. Should Recipient receive a request for public information that seeks to acquire Confidential Information, Recipient shall (a) decline to release the information for the purpose of requesting an attorney general decision, (b) within ten (10) days of the request inform the Disclosing Party's, Officer for Public Information, in writing of such request, and (c) follow the procedures set out in § 552.305 of the TPIA. Recipient shall have no obligation to appeal any opinion from the Texas Attorney General determining that Confidential Information or Proprietary Materials constitute public information and directing Recipient to produce the same.

To evidence their acceptance of this Agreement, the Parties' authorized representatives have signed below effective as of the date first specified above.

**PUBLIC UTILITIES BOARD  
OF THE CITY OF BROWNSVILLE, TEXAS**

**[FIRM NAME]**

\_\_\_\_\_  
Name: Marilyn D. Gilbert, MBA  
Title: General Manager and CEO

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

# CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

(Complete and return with bid)

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 bid 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.

# **ETHICS STATEMENT**

**(Complete and return with bid)**

The undersigned proposer, by signing and executing this RFQ, certifies and represents to the Brownsville Public Utilities Board that proposer 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 proposer also certifies and represents that the proposer 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 proposer certifies and represents that proposer 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 proposer also certifies and represents that proposer has not received any information not available to other proposers so as to give the undersigned a preferential advantage with respect to this RFQ; the proposer further certifies and represents that proposer has not violated any state, federal, or local law, regulation or ordinance relating to bribery, improper influence, collusion or the like and that proposer 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 proposer 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 PROPOSER SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS THE BROWNSVILLE PUBLIC UTILITIES BOARD, ALL OF ITS 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 CONSULTANT 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: \_\_\_\_\_

AGENT NAME: \_\_\_\_\_

AGENT SIGNATURE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_

STATE: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_

TELEPHONE: \_\_\_\_\_ TELEFAX: \_\_\_\_\_

FEDERAL ID#: \_\_\_\_\_ AND/OR SOCIAL SECURITY #: \_\_\_\_\_

DEVIATIONS FROM SPECIFICATIONS IF ANY:

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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.

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

**CONFLICT OF INTEREST QUESTIONNAIRE**

<b>CONFLICT OF INTEREST QUESTIONNAIRE</b>		<b>FORM CIQ</b>
<b>For vendor doing business with local governmental entity</b>		
<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>	<b>OFFICE USE ONLY</b>  Date Received	
<p><b>1</b> Name of vendor who has a business relationship with local governmental entity.</p>		
<p><b>2</b> <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><b>3</b> Name of local government officer about whom the information is being disclosed.</p> <p align="center">_____</p> <p align="center">Name of Officer</p>		
<p><b>4</b> 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 align="center">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 align="center"><input type="checkbox"/> Yes      <input type="checkbox"/> No</p> <p align="center">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 align="center"><input type="checkbox"/> Yes      <input type="checkbox"/> No</p>		
<p><b>5</b> 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><b>6</b> <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><b>7</b></p> <p align="center">_____ Signature of vendor doing business with the governmental entity</p> <p align="right">_____ 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: \_\_\_\_\_



## STATE LAW VERIFICATIONS

I, \_\_\_\_\_ (Person's name), the undersigned representative of \_\_\_\_\_ (Company or Business name) (hereafter referred to as the "Company") being an adult over the age of eighteen (18) years of age, after being duly sworn by the undersigned notary, do hereby depose and verify under oath as follows:

- **IRAN, SUDAN AND FOREIGN TERRORIST ORGANIZATIONS:** By submission of a response to City of Brownsville Public Utilities Board ("BPUB") Request for RFQ P018-25 (the "RFQ"), the responding Company represents that, to the extent this RFQ submission or any contracts executed in response to this RFQ constitutes a governmental contract within the meaning of Section 2252.151 of the Texas Government Code, as amended, solely for purposes of compliance with Section 2252.152 of the Texas Government Code, and except to the extent otherwise required by applicable federal law, neither the responding Company, nor any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of the Company is a company listed by the Texas Comptroller of Public Accounts under Sections 806.051, 807.051, or 2252.153 of the Texas Government Code.
- **ANTI-BOYCOTT ISRAEL VERIFICATION:** By submission of a response to the BPUB RFQ, the responding Company represents that, to the extent this RFQ submission, or any contracts executed in response to this RFQ, constitutes a contract for goods or services within the meaning of Section 2271.002 of the Texas Government Code, as amended, solely for purposes of compliance with Chapter 2271 of the Texas Government Code, and subject to applicable federal law, including without limitation, 50 U.S.C. Section 4607, the responding Company, as well as any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of the Company, (1) does not boycott Israel and (2) will not boycott Israel through the term of any such contract. The term "boycott Israel" as used in this paragraph has the meaning assigned to such term in Section 808.001 of the Texas Government Code, as amended.
- **VERIFICATION REGARDING NO DISCRIMINATION AGAINST FIREARMS:** By submission of a response to the BPUB RFQ, the responding Company represents that, to the extent this RFQ submission, or any contracts executed in response to this RFQ, constitutes a contract for goods or services for which a written verification is required under Section 2274.002, Texas Government Code (as added by Senate Bill 19, 87th Texas Legislature, Regular Session), as amended, the responding Company hereby verifies that it, as well as any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of the Firm, (1) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) will not discriminate during the term of any such contract against a firearm entity or firearm trade association. The foregoing verification is made solely to comply with Section 2274.002, Texas Government Code (as added by Senate Bill 19, 87th Texas

Legislature, Regular Session), as amended, to the extent such section does not contravene applicable Texas or federal law. As used in the foregoing verification, “discriminate against a firearm entity or firearm trade association” shall have the meaning assigned to such term in Section 2274.001, Texas Government Code (as added by Senate Bill 19, 87th Texas Legislature, Regular Session).

- **VERIFICATION REGARDING NO ENERGY COMPANY BOYCOTTS:** By submission of a response to the BPUB RFQ, the responding Company represents that, to the extent this RFQ submission, or any contracts executed in response to this RFQ, constitutes a contract for goods or services for which a written verification is required under Section 2274.002, Texas Government Code (as added by Senate Bill 13, 87th Texas Legislature, Regular Session), as amended, the responding Company hereby verifies that the responding Company, as well as any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of the Firm, (1) does not boycott energy companies and (2) will not boycott energy companies during the term of any such contract. The foregoing verification is made solely to comply with Section 2274.002, Texas Government Code (as added by Senate Bill 13, 87th Texas Legislature, Regular Session), as amended, to the extent such section does not contravene applicable Texas or federal law. As used in the foregoing verification, “boycott energy companies” shall have the meaning assigned to such term in Section 809.001(1), Texas Government Code.

\_\_\_\_\_  
DATE

\_\_\_\_\_  
SIGNATURE OF COMPANY REPRESENTATIVE

On this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, personally appeared

\_\_\_\_\_, the above-named person, who after by me being duly sworn, did swear and confirm that the above is true and correct.

NOTARY SEAL \_\_\_\_\_

NOTARY SIGNATURE \_\_\_\_\_

Date



# W-9 REQUEST FOR TAXPAYER INFORMATION

Form <b>W-9</b> (Rev. March 2024) Department of the Treasury Internal Revenue Service	<b>Request for Taxpayer                  Identification Number and Certification</b> Go to <a href="http://www.irs.gov/FormW9">www.irs.gov/FormW9</a> for instructions and the latest information.	Give form to the requester. Do not send to the IRS.
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**Before you begin.** For guidance related to the purpose of Form W-9, see *Purpose of Form*, below.

Print or type.  See Specific Instructions on page 3.	1 Name of entity/individual. An entry is required. (For a sole proprietor or disregarded entity, enter the owner's name on line 1, and enter the business/disregarded entity's name on line 2.)	
	2 Business name/disregarded entity name, if different from above.	
	3a Check the appropriate box for federal tax classification of the entity/individual whose name is entered on line 1. Check only one of the following seven boxes. <input type="checkbox"/> Individual/sole proprietor <input type="checkbox"/> C corporation <input type="checkbox"/> S corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate <input type="checkbox"/> LLC. Enter the tax classification (C = C corporation, S = S corporation, P = Partnership) _____ Note: Check the "LLC" box above and, in the entry space, enter the appropriate code (C, S, or P) for the tax classification of the LLC, unless it is a disregarded entity. A disregarded entity should instead check the appropriate box for the tax classification of its owner. <input type="checkbox"/> Other (see instructions) _____	4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):  Exempt payee code (if any) _____  Exemption from Foreign Account Tax Compliance Act (FATCA) reporting code (if any) _____  (Applies to accounts maintained outside the United States.)
	3b If on line 3a you checked "Partnership" or "Trust/estate," or checked "LLC" and entered "P" as its tax classification, and you are providing this form to a partnership, trust, or estate in which you have an ownership interest, check this box if you have any foreign partners, owners, or beneficiaries. See instructions _____ <input type="checkbox"/>	
	5 Address (number, street, and apt. or suite no.). See instructions.	Requestor's name and address (optional)
	6 City, state, and ZIP code	
	7 List account number(s) here (optional)	

<b>Part I Taxpayer Identification Number (TIN)</b>																	
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 <i>How to get a TIN</i> , later.	Social security number <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%; height: 20px;"> </td> </tr> <tr> <td style="text-align: center;">-</td> <td style="text-align: center;">-</td> <td></td> <td></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> <tr> <td style="text-align: center;">-</td> <td style="text-align: center;">-</td> <td></td> <td></td> </tr> </table>					-	-							-	-		
-	-																
-	-																
<b>Note:</b> If the account is in more than one name, see the instructions for line 1. See also <i>What Name and Number To Give the Requester</i> for guidelines on whose number to enter.																	

<b>Part II Certification</b>	
Under penalties of perjury, I certify that:	
1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and	
2. I am not subject to backup withholding because (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and	
3. I am a U.S. citizen or other U.S. person (defined below); and	
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.	
<b>Certification instructions.</b> 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.	
<b>Sign Here</b> Signature of U.S. person	Date

**General Instructions**

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

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

**What's New**

Line 3a has been modified to clarify how a disregarded entity completes this line. An LLC that is a disregarded entity should check the appropriate box for the tax classification of its owner. Otherwise, it should check the "LLC" box and enter its appropriate tax classification.

New line 3b has been added to this form. A flow-through entity is required to complete this line to indicate that it has direct or indirect foreign partners, owners, or beneficiaries when it provides the Form W-9 to another flow-through entity in which it has an ownership interest. This change is intended to provide a flow-through entity with information regarding the status of its indirect foreign partners, owners, or beneficiaries, so that it can satisfy any applicable reporting requirements. For example, a partnership that has any indirect foreign partners may be required to complete Schedules K-2 and K-3. See the Partnership instructions for Schedules K-2 and K-3 (Form 1065).

**Purpose of Form**

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS is giving you this form because they

# W-8 8BEN-E CERTIFICATE OF STATUS OF BENEFICIAL OWNER

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](http://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 . . . . . **Instead use Form: 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**

**Part I Identification of Beneficial Owner**

1 Name of organization that is the beneficial owner	2 Country of incorporation or organization																
3 Name of disregarded entity receiving the payment (if applicable, see instructions)																	
4 Chapter 3 Status (entity type) (Must check one box only): <table style="width: 100%; border: none;"> <tr> <td><input type="checkbox"/> Simple trust</td> <td><input type="checkbox"/> Tax-exempt organization</td> <td><input type="checkbox"/> Corporation</td> <td><input type="checkbox"/> Partnership</td> </tr> <tr> <td><input type="checkbox"/> Central Bank of Issue</td> <td><input type="checkbox"/> Private foundation</td> <td><input type="checkbox"/> Complex trust</td> <td><input type="checkbox"/> Foreign Government - Controlled Entity</td> </tr> <tr> <td><input type="checkbox"/> Grantor trust</td> <td><input type="checkbox"/> Disregarded entity</td> <td><input type="checkbox"/> Estate</td> <td><input type="checkbox"/> Foreign Government - Integral Part</td> </tr> <tr> <td colspan="2"></td> <td colspan="2"><input type="checkbox"/> International organization</td> </tr> </table> 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. <input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Simple trust	<input type="checkbox"/> Tax-exempt organization	<input type="checkbox"/> Corporation	<input type="checkbox"/> Partnership	<input type="checkbox"/> Central Bank of Issue	<input type="checkbox"/> Private foundation	<input type="checkbox"/> Complex trust	<input type="checkbox"/> Foreign Government - Controlled Entity	<input type="checkbox"/> Grantor trust	<input type="checkbox"/> Disregarded entity	<input type="checkbox"/> Estate	<input type="checkbox"/> Foreign Government - Integral Part			<input type="checkbox"/> International organization	
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		<input type="checkbox"/> International organization															
5 Chapter 4 Status (FATCA status) (See instructions for details and complete the certification below for the entity's applicable status.) <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top;"> <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.                 </td> <td style="width: 50%; vertical-align: top;"> <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. 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6 Permanent residence address (street, apt. or suite no., or rural route). <b>Do not use a P.O. box or in-care-of address</b> (other than a registered address).																	
City or town, state or province. Include postal code where appropriate.	Country																
7 Mailing address (if different from above)																	
City or town, state or province. Include postal code where appropriate.	Country																

For Paperwork Reduction Act Notice, see separate instructions. Cat. No. 59689N Form **W-8BEN-E** (Rev. 10-2021)

# PROFESSIONAL CONSULTING AND TECHNICAL SERVICES CONTRACT DRAFT

## PROFESSIONAL CONSULTING AND TECHNICAL SERVICES CONTRACT

This Professional Consulting and Technical Services Contract (“**Contract**”), dated as of \_\_\_\_\_, 20\_\_\_\_ (the “**Effective Date**”), is entered into by and between the PUBLIC UTILITIES BOARD OF THE CITY OF BROWNSVILLE, TEXAS (“**Brownsville PUB**”) and [ENTER VENDOR’S NAME], a [ENTER VENDOR’S STATE & TYPE OF COMPANY, i.e., Texas, Limited Liability Company, Corporation, etc.], with offices located at [ENTER VENDOR’S STREET ADDRESS INCLUDING CITY/STATE/ZIP CODE] (“**Consultant**” and together with Brownsville PUB, the “**Parties**,” and each a “**Party**”).

WHEREAS, Consultant has the capability and capacity to provide [ENTER PROJECT NAME/SERVICES TO BE PROVIDED] as described herein.

WHEREAS, Brownsville PUB desires to engage Consultant to provide the said services under the terms and conditions hereinafter set forth, and Consultant is willing to perform such services.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements contained herein, the Parties agree as follows:

1. Scope of Services.

Consultant agrees to perform the professional consulting and technical services (the “**Services**”) described below and in Exhibit “A” Scope of Services attached hereto and incorporated herein for all purposes. The Parties by mutual agreement may provide for additional professional consulting and technical services to be performed under the terms and conditions of this Contract and described under any additional written Work Orders, pursuant to Paragraph 13 “Changes.” Nothing in this Contract shall be construed to prevent Brownsville PUB from performing for itself or from acquiring from other providers services that are similar to or identical to the Services.

2. Compensation.

Brownsville PUB will pay Consultant for the Services as outlined in Exhibit “B” Compensation, not to exceed compensation of [ENTER WRITTEN AMOUNT FOLLOWED BY FIGURES, i.e., One Thousand and 00/100 Dollars (\$1,000.00)].

3. Method of Payment.

A. Monthly statements, in Consultant’s standard format, will be submitted by Consultant to Brownsville PUB, as well as any supporting documentation requested by Brownsville PUB. Statements will be based on Consultant’s Services completed at the end of the preceding month. Brownsville PUB shall have sole discretion in the approval

or disapproval of any compensation to Consultant. If Brownsville PUB disapproves of any charge, in whole or in part, it shall provide written notice to Consultant of the reasons therefor. Brownsville PUB shall make whole or partial payment to Consultant within thirty (30) days of receipt of a statement.

B. Brownsville PUB will reimburse Consultant for all reasonable expenses incurred in accordance with Exhibit A, if such expenses have been pre-approved, in writing by Brownsville PUB, within 30 days of receipt by Brownsville PUB of an invoice from Consultant accompanied by receipts and supporting documentation reasonably acceptable to Brownsville PUB. All Consultant expenses not pre-approved by Brownsville PUB or not otherwise meeting the requirements of this Contract or Exhibit A shall be the sole responsibility of Consultant.

C. The fees set forth in this Contract shall cover and include all sales and use taxes, duties, and charges of any kind imposed by any federal, state, or local governmental authority on amounts payable by Brownsville PUB under this Contract, and in no event shall Brownsville PUB be required to pay any additional amount to Consultant in connection with such taxes, duties, and charges, or any taxes imposed on, or regarding, Consultant's income, revenues, gross receipts, personnel, or real or personal property or other assets.

D. Consultant shall keep accurate records, including time sheets and travel vouchers of all time and expenses allocated to performance of the Services. All such records shall be kept in the offices of Consultant for a period of not less than five (5) years and shall be made available to Brownsville PUB for inspection or copying upon reasonable request during regular business hours at Consultant's offices.

4. Consultant's Standard of Care

Consultant shall perform the Services (A) in accordance with the terms and subject to the conditions set forth in this Contract; (B) using personnel of required skill, experience, and qualifications; (C) in a timely, workmanlike, and professional manner; (D) with the same degree of care, skill, and diligence as is ordinarily provided by a professional services consultant providing similar services and similar circumstances for a project of which this Contract applies; (E) and shall give professional consultations and advice to Brownsville PUB during the performance of the Services; (F) in compliance with all applicable laws and regulations; and (G) to the reasonable satisfaction of Brownsville PUB.

5. Ownership of Documents

A. Consultant assigns to Brownsville PUB, Consultant's entire right, title, and interest in any document, data, studies, surveys, drawings, specifications, field notes, maps, model, photographs, reports, invention, technique, process, device, discovery, improvement, or know-how, whether patentable or not, hereafter made or conceived solely or jointly by Consultant while working for or on behalf of Brownsville PUB, which relate to, is suggested by, or results from Consultant's provisions of the Services or

this Contract and depends on either:

- i. Consultant's knowledge of Confidential Information (as defined in Section 6) it obtains from Brownsville PUB; or
- ii. The use of Brownsville PUB's equipment supplies, facilities, information, or materials.

B. Consultant shall disclose any such item described in subsection A of this Section 5 to Brownsville PUB. Consultant shall, upon request of Brownsville PUB, promptly execute a specific assignment of title to Brownsville PUB and do anything else reasonably necessary to enable Brownsville PUB to secure for itself, patent, trade secret, or any other proprietary rights in the United States or other countries. It shall be conclusively presumed that any patent applications related to this Contract, related to trade secrets of Brownsville PUB, or which relate to tasks assigned to Consultant by Brownsville PUB, which Consultant may file within one year after termination of this Contract, shall belong to Brownsville PUB, and Consultant hereby assigns same to Brownsville PUB, as having been conceived or reduced to practice during the term of this Contract.

C. All writings or works of authorship, including, without limitation, program codes or documentation, produced or authored by Consultant in the course of performing services for Brownsville PUB, together with any associated copyrights, are works made for hire and the exclusive property of Brownsville PUB. To the extent that any writings or works of authorship may not, by operation of law, be works made for hire, this Contract shall constitute an irrevocable assignment by Consultant to Brownsville PUB of the ownership of any and all rights of copyright in, such items, and Brownsville PUB shall have the right to obtain and hold in its own name, rights of copyright, copyright registrations, and similar protections which may be available in the works. Consultant shall give Brownsville PUB or its designees all assistance reasonably required to perfect such rights.

D. If for any reason, including incapacity, Brownsville PUB is unable to secure Consultant's signature on any document needed to apply for, perfect, or otherwise acquire title to the intellectual property rights granted to it under this Section 5, or to enforce such rights, Consultant hereby designates Brownsville PUB as Consultant's attorney-in-fact and agent, solely and exclusively to act for and on Consultant's behalf to execute and file such documents with the same legal force and effect as if executed by Consultant and for no other purpose.

E. Consultant owns the discoveries, improvements, inventions, or intellectual property made or conceived by Consultant before the Effective Date and independently of any Confidential Information of Brownsville PUB and this Contract and are expressly reserved and excepted from the provisions of this Contract.

6. Confidentiality and Data Security.

A. All non-public, confidential, or proprietary information of Brownsville PUB ("**Confidential Information**"), including, but not limited to, business plans, specifications, designs, documents, data, business operations, customer lists, customer information, including personally identifiable information, pricing, and any other business-related information disclosed or made available by Brownsville PUB to Consultant, whether disclosed orally or disclosed or accessed in written, electronic, or other form or media, and whether or not marked, designated, or otherwise identified as "confidential," in connection with this Contract is confidential, solely for Consultant's use in performing this Contract and may not be disclosed or copied unless authorized by Brownsville PUB in writing. Confidential Information does not include any information that: (i) is or becomes generally available to the public other than as a result of Consultant's breach of this Contract; (ii) is obtained by Consultant on a non-confidential basis from a third-party that was not legally or contractually restricted from disclosing such information; (iii) Consultant establishes by documentary evidence, was in Consultant's possession prior to Brownsville PUB's disclosure hereunder; or (iv) was or is independently developed by Consultant without using any Confidential Information. Upon Brownsville PUB's request, Consultant shall promptly return all documents and other materials received from Brownsville PUB. Brownsville PUB shall be entitled to injunctive relief for any violation of this Section.

B. At all times during the duration of this Contract and for any period of time Consultant accesses, stores, or processes any Confidential Information after the termination of this Contract, Consultant shall have in place appropriate data security processes and procedures as set forth in Exhibit D, the terms of which are incorporated herein by this reference.

7. Insurance.

A. Consultant agrees to maintain Worker's Compensation Insurance and Employers' Liability Insurance to cover all of its own personnel engaged in performing services for Brownsville PUB under this Contract in the following amounts:

Workmen's Compensation – Texas Statutory  
Employers' Liability -- \$100,000.00

B. Consultant also agrees to maintain Commercial General Liability, Business Automobile Liability, Umbrella Liability, and Cyber Liability Insurance covering claims against Consultant for damages resulting from bodily injury, death or property damages from accidents arising in the course of work performed under this Contract in the following amounts:

Commercial General Liability

Bodily Injury	\$1,000,000.00 each occurrence
Property Damage	\$1,000,000.00 each occurrence

Business Automobile Liability for all vehicles:

Bodily Injury           \$50,000.00 each person, \$1,000,000.00 each occurrence  
Property Damage       \$1,000,000.00 each occurrence

Excess Umbrella Liability:

\$1,000,000.00

Cyber Liability:

\$250,000.00

Consultant shall also provide Professional Liability Insurance in the amount of \$1,000,000.00 per claim and annual aggregate.

C. Consultant shall add Brownsville PUB, its Board Members, Officers and employees, and the City of Brownsville, its Commissioners, Officers and employees as additional insureds on all required insurance policies, except workers' compensation/employer's liability. The insurance certificate(s) shall provide for thirty (30) calendar days advance notice to Brownsville PUB and City of any policy cancellation or material change. The Commercial General Liability and Excess Umbrella Liability Policy shall be of an "occurrence" type policy. The Commercial General Liability shall also include protection against claims insured by usual personal injury liability coverage and coverage for contractual liability assumed by Consultant.

D. Consultant shall furnish Brownsville PUB with Insurance Certificate(s) upon Brownsville PUB's reasonable request and at least ten (10) calendar days prior to field work commencement, which confirm that all required insurance policies are in full force and effect.

**8. INDEMNIFICATION AND LIMITATION OF LIABILITY.**

**A. CONSULTANT SHALL INDEMNIFY, DEFEND, AND HOLD HARMLESS THE CITY OF BROWNSVILLE AND BROWNSVILLE PUB AND THEIR COMMISSIONERS, BOARD MEMBERS, OFFICERS, AND EMPLOYEES FROM ALL SUITS, ACTIONS, LOSSES, DAMAGES, CLAIMS, LIABILITIES, OR EXPENSES OF ANY CHARACTER, TYPE, OR DESCRIPTION, INCLUDING WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, ALL EXPENSES OF LITIGATION, COURT COSTS, AND REASONABLE ATTORNEY'S FEES FOR INJURY OR DEATH TO ANY PERSON, OR INJURY TO ANY PROPERTY, RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY, TO THE EXTENT ARISING OUT OF, OR RESULTING FROM ANY CLAIM OF A THIRD PARTY OR BROWNSVILLE PUB ARISING OUT OF OR OCCURRING IN CONNECTION WITH, THE NEGLIGENT ACTS OR OMISSIONS OF, WILLFUL MISCONDUCT OF, OR BREACH OF THIS CONTRACT BY CONSULTANT OR ITS AGENTS OR EMPLOYEES.**

**B. EXCEPT FOR CONSULTANT'S INDEMNIFICATION OBLIGATIONS SET FORTH IN SUBSECTION A OF THIS SECTION 8, TO THE EXTENT ALLOWED BY TEXAS LAW GOVERNING PUBLIC ENTITIES, CONSULTANT'S TOTAL LIABILITY TO BROWNSVILLE PUB FOR ANY LOSS OR DAMAGES FROM CLAIMS ARISING OUT OF, OR IN CONNECTION WITH, THIS CONTRACT FROM ANY CAUSE INCLUDING CONSULTANT'S STRICT LIABILITY, BREACH OF CONTRACT, OR PROFESSIONAL NEGLIGENCE SHALL NOT EXCEED ONE MILLION DOLLARS. TO THE EXTENT ALLOWED BY TEXAS LAW, BROWNSVILLE PUB HEREBY RELEASES CONSULTANT FROM ANY LIABILITY EXCEEDING SUCH AMOUNT.**

9. Addresses for Notices and Communications.

BROWNSVILLE PUB

Cory Carswell  
Director of Power Supply and  
Market Operations  
1425 Robinhood Drive  
Brownsville, Texas 78521  
Phone: (956) 983-6797  
Email: cwcarswell@brownsville-pub.com

VENDOR  
NAME  
TITLE  
STREET ADDRESS  
CITY, STATE ZIP CODE  
Phone:  
Email:

All notices and communications under this Contract must be in writing and shall be mailed or delivered to Brownsville PUB and Consultant at the above addresses (or to such other address that the receiving Party may designate from time to time in accordance with this Section).

10. Successors and Assignments.

Neither Party shall assign, transfer, delegate, or subcontract any of its rights or obligations under this Contract without the prior written consent of the other Party. Any purported assignment or delegation in violation of this Section shall be null and void. No assignment or delegation shall relieve the transferring Party of any of its obligations hereunder. In the event of any assignment, transfer, delegation, or subcontracting, Brownsville PUB and Consultant each binds itself and its successors, executors, administrators and assigns to the other parties of this Contract and to the successors, executors, administrators and assigns of such other parties, in respect to all covenants of this Contract. Nothing herein shall be construed as creating any personal liability on the

part of any officer, Board Member, Commissioner, or employee of any public body which is a party and/or indemnitee hereto.

11. Termination of Contract for Cause.

If, through any cause, Consultant shall fail to fulfill in a timely and proper manner its obligations under this Contract, or if Consultant shall violate any of the covenants, agreements, warranties or stipulations in this Contract, Brownsville PUB shall have the right, without prejudice to any other rights or remedies it may have under this Contract, to terminate this Contract by giving written notice to Consultant of such termination and specifying the date thereof, at least fifteen (15) calendar days before the effective date of such termination. Without prejudice to any other rights or remedies it may have under this Contract, Brownsville PUB shall have the right to terminate this Contract if in its sole opinion the work of the Consultant is not effective for the purpose it is being performed. Consultant shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder provided such compensation is approved by Brownsville PUB in its sole discretion. The method of compensation herein shall be as provided in Section 3 of this Contract.

Notwithstanding the above, Consultant shall not be relieved of liability to Brownsville PUB for damages sustained by Brownsville PUB by virtue of any intentional and/or negligent act or omission or any breach of this Contract by Consultant, and Brownsville PUB may withhold any payments to Consultant for the purpose of setoff, until such time as the exact amount of damages due Brownsville PUB from Consultant is determined.

Subject to Section 8, Consultant agrees that Brownsville PUB shall have all rights and remedies afforded to it at law to recover any damages sustained by Brownsville PUB in connection with the work performed by Consultant under this Contract, including regulatory fines and penalties, attorneys' fees and expert witness costs associated with the defense against any cause of action related to this Contract. In addition, Brownsville PUB shall, in addition to any damages to which it is entitled, be entitled to seek immediate injunctive relief against Consultant prohibiting further actions inconsistent with Consultant's obligations under this Contract. Brownsville PUB shall also have all rights and remedies afforded to it in equity to enforce the terms of this Contract. The exercise of any one right or remedy shall be without prejudice to the enforcement of any other right or remedy allowed at law or in equity.

12. Termination for Convenience.

Brownsville PUB may terminate this Contract at any time by giving at least thirty (30) calendar days notice in writing to Consultant. If the Contract is terminated by Brownsville PUB as provided herein, Consultant will be paid for the Services provided and approved expenses incurred up to the termination date if such compensation is approved by Brownsville PUB, which approval shall not be unreasonably withheld. Consultant shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder, provided such compensation is approved by

Brownsville PUB, which shall not be unreasonably withheld. The method of compensation herein shall be as provided in Section 3 of this Contract.

Notwithstanding the above, Consultant shall not be relieved of liability to Brownsville PUB for damages sustained by Brownsville PUB by virtue of any intentional and/or negligent act or omission or any breach of this Contract by Consultant, and Brownsville PUB may reasonably withhold a sufficient portion of any payments to Consultant for the purpose of setoff until such time as the exact amount of damages due Brownsville PUB from Consultant is determined.

Consultant agrees that Brownsville PUB shall have all rights and remedies afforded to it at law to recover any damages sustained by Brownsville PUB in connection with the work performed by Consultant under this Contract. Brownsville PUB shall also have all rights and remedies afforded to it in equity to enforce the terms of this Contract. The exercise of any one right or remedy shall be without prejudice to the enforcement of any other right or remedy allowed at law or in equity.

13. Changes.

Brownsville PUB may, from time to time, request changes in the scope of the Services to be performed hereunder. Such changes, including any increase or decrease in the amount of Consultant's compensation, which are mutually agreed upon by and between Brownsville PUB and Consultant shall be incorporated in written amendments to this Contract called "Work Orders".

14. Reports and Information.

Consultant, at such times (but not more than once per month unless an emergency situation arises), and in such forms as Brownsville PUB may require, shall furnish Brownsville PUB such periodic reports as they may request pertaining to the work or services undertaken pursuant to this Contract, the cost and obligations incurred or to be incurred in connection therewith, and any other matter covered by this Contract.

15. Civil Rights.

Consultant shall comply with all applicable federal, state, and local laws regarding nondiscrimination and equal employment opportunity, as set forth in Consultant's policy statement which shall be provided to Brownsville PUB upon request.

16. Entire Agreement.

This Contract, including and together with any Work Orders, exhibits, schedules, and attachments, each of which will be attached hereto, constitutes the entire agreement between the Parties with respect to the subject matter contained herein, and supersedes all prior and contemporaneous agreements and understandings, both written and oral, between the Parties concerning the subject matter of this Contract.

17. Waiver.

The failure or delay on the part of any Party herein at any time to require the performance by any other Party of any portion of this Contract shall not be deemed a waiver, or in any way affect that Party's rights to enforce such provision or any other provision. Any waiver by any Party herein of any provision hereof shall not be taken or held to be a waiver unless explicitly set forth in writing and signed by the Party so waiving and shall not be a waiver of any other provision hereof or any other breach hereof. No single or partial exercise of any right, remedy, power, or privilege hereunder shall preclude any other or further exercise thereof.

18. Severability.

The invalidity, illegality, or unenforceability of any provision of this Contract shall not affect the validity or enforceability of any other provision of this Contract or invalidate or render unenforceable such provision in any other jurisdiction. Upon a determination that any provision is invalid, illegal, or unenforceable, the Parties shall negotiate in good faith to modify this Contract to effect the original intent of the Parties as closely as possible in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

19. Survival.

Any and all representations, conditions, and warranties made by Consultant under this Contract are of the essence of this Contract and shall survive the execution, delivery and termination of it, and all statements contained in any document required by Brownsville PUB, whether delivered at the time of the execution or at a later date, shall constitute Consultants representations and warranties hereunder.

20. Force Majeure.

No Party shall be liable or responsible to the other Party, or be deemed to have defaulted under or breached this Contract, for any failure or delay in fulfilling or performing any term of this Contract, when and to the extent such Party's (the "**Impacted Party**") failure or delay is caused by or results from the following force majeure events (each a "**Force Majeure Event**"): (A) acts of God; (B) flood, fire, earthquake, pandemic, or explosion; (C) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; (D) government order, law, or action; (E) national or regional emergency; or (F) other similar events beyond the reasonable control of the Impacted Party. Notwithstanding the foregoing, Consultant's financial inability to perform, changes in cost or availability of materials, components or services, market conditions, or supplier actions or contract disputes will not excuse performance by Contractor under this Section 20.

The Impacted Party shall give notice within three (3) days of the Force Majeure Event to the other Party, stating the period of time the occurrence is expected to continue. The

Impacted Party shall use diligent efforts to end the failure or delay and ensure the effects of such Force Majeure Event are minimized. The Impacted Party shall resume the performance of its obligations as soon as reasonably practicable after the removal of the cause. In the event that the Impacted Party's failure or delay remains uncured for a period of thirty (30) consecutive days following written notice given by it under this Section 20, the other Party may thereafter immediately terminate this Contract upon written notice.

21. Governing Law.

This Contract is governed by the laws of the State of Texas without giving effect to the conflict of laws provisions thereof to the extent such principles or rules would require or permit the application of the laws of any jurisdiction other than those of the State of Texas and all obligations of the Parties under this Contract are performable in Cameron County, Texas.

22. Choice of Forum.

Each Party irrevocably and unconditionally agrees that it will not commence any action, litigation, or proceeding of any kind whatsoever against the other Party in any way arising from or relating to this Contract, including all exhibits, schedules, attachments, and appendices attached to this Contract, and all contemplated transactions, including contract, equity, tort, fraud, and statutory claims, in any forum other than the state or federal court located in Cameron County, Texas. Each Party irrevocably and unconditionally submits to the exclusive jurisdiction of such courts and agrees to bring any such action, litigation, or proceeding only in the state or federal court located in Cameron County, Texas. Each Party agrees that a final judgment in any such action, litigation, or proceeding is conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

23. Time for Performance.

The Services shall be completed in accordance with the performance schedule as outlined in Exhibit "C", except to the extent timely performance is prevented by a Force Majeure Event, subject to the terms of Section 20.

24. Attorney's Fees.

If it is necessary for either Party herein to file a cause of action at law or in equity against the other Party due to: (A) a breach of this Contract or (B) any intentional and/or negligent act or omission by the other Party, the non-breaching or non-negligent Party shall be entitled to reasonable attorney's fees and costs, and any necessary disbursements, in addition to any other relief to which it is legally entitled.

25. Cumulative Remedies.

All Parties shall have all rights and remedies afforded to it at law or in equity to recover

damages and interpret or enforce the terms of this Contract. The exercise of any one right or remedy shall be without prejudice to the enforcement of any other right or remedy allowed at law or in equity.

26. State or Federal Laws.

This Contract is subject to all applicable Federal and State laws, statutes, codes, and any applicable permits, ordinances, rules, orders and regulations of any local, state or federal government authority having jurisdiction, but nothing contained herein shall be construed as a waiver of any right to question or contest any such law, ordinance, order, rule or regulation in any forum having jurisdiction.

27. No Third-Party Beneficiary.

The Parties are entering into this Contract solely for the benefit of themselves and agree that nothing herein shall be construed to confer any right, privilege or benefit on any person or entity other than the Parties hereto.

28. Dispute Resolution.

In the event a dispute arises between the Parties, then as a condition precedent to any legal action by either Party, the Parties shall first refer the dispute to upper management for good faith negotiations for ten (10) calendar days, and if not resolved, then the Parties agree to participate in at least one session of mediation, as needed, in an effort to resolve the dispute. The Parties agree to split the mediator's fees equally, but each Party shall bear its own legal fees for the mediation. The mediation shall be administered by a mutually agreeable mediation service and shall be held in Cameron County, Texas, unless Brownsville PUB agrees to another location.

29. Amendments.

No amendment to, or modification or termination of this Contract is effective unless it is in writing, identified as an amendment to or modification or termination of this Contract, and signed by an authorized representative of each Party.

30. Independent Contractor.

A. It is understood and acknowledged that the Services which Consultant will provide to Brownsville PUB hereunder shall be in the capacity of an independent contractor and not as an employee or agent of Brownsville PUB. Consultant shall control the conditions, time, details, and means by which Consultant performs the Services. Brownsville PUB shall have the right to inspect the work of Consultant solely for the purpose of determining whether the work is completed according to this Contract and any applicable Work Order.

B. Consultant has no authority to commit, act for or on behalf of Brownsville PUB, or to bind Brownsville PUB to any obligation or liability.

C. Consultant shall not be eligible for and shall not receive any employee benefits from Brownsville PUB and shall be solely responsible for the payment of all taxes, FICA, federal and state unemployment insurance contributions, state disability premiums, and all similar taxes and fees relating to the fees earned by Consultant hereunder.

31. Counterparts.

This Contract may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same agreement. Notwithstanding anything to the contrary in Section 9, a signed copy of this Contract delivered by facsimile, email, or other means of electronic transmission is deemed to have the same legal effect as delivery of an original signed copy of this Contract.

IN WITNESS WHEREOF, the Parties have caused this Contract to be executed as of the Effective Date by their respective officers thereunto duly authorized.

[ENTER VENDOR'S NAME]

By: \_\_\_\_\_  
[NAME OF AUTHORIZED SIGNER]  
[TITLE OF SIGNER]

PUBLIC UTILITIES BOARD OF THE  
CITY OF BROWNSVILLE, TEXAS

By: \_\_\_\_\_  
Marilyn D. Gilbert, MBA  
General Manager and CEO

## **EXHIBIT “A”**

### **SCOPE OF SERVICES FOR PROFESSIONAL CONSULTING SERVICES: ECONOMIC ANALYSIS OF POWER SUPPLY**

Refer to (Insert RFQ Title) proposal submitted by \_\_\_\_\_ dated \_\_\_\_\_, the terms of which are incorporated herein by this reference.

1. Receive general direction from the BPUB General Manager & CEO, and/or appointed designee.
2. Evaluate the historical performance of specified generation assets in the ERCOT market.
3. Analyze revenue streams, including energy and ancillary services.
4. Assess operational efficiency, availability, and dispatch patterns.
5. Develop financial models to simulate asset performance under various market scenarios (e.g., high/low demand, fuel price volatility, regulatory changes).
6. Estimate future revenue potential and cost structures.
7. Conduct sensitivity analysis on key variables (e.g., heat rate, fuel cost, nodal pricing).
8. Review current and anticipated ERCOT market rules, protocols, and regulatory developments.
9. Identify potential impacts on asset economics and market participation strategies for owned or contracted assets.
10. Provide actionable insights and recommendations for asset optimization, reinvestment or retirement analysis, acquisition evaluation and risk mitigation approaches.

## EXHIBIT “B”

### COMPENSATION FOR PROFESSIONAL CONSULTING SERVICES: ECONOMIC ANALYSIS OF POWER SUPPLY

Consultant proposes to perform the work and services described above through the **PROJECT/TYPE OF SERVICES TO BE PROVIDED** project. Consultant will establish Project requirements, determine Project policy matters, ensure satisfactory completion of the work and services, and be directly responsible for the Project. Consultant shall not be reassigned away from this engagement without the prior written consent of Brownsville PUB.

Consultant proposes to perform all work and services described in Exhibit “A” Scope of Services, for the estimated cost of \$\_\_\_\_\_. Invoices will be submitted monthly. Should the work and Services be completed for less than that amount, Brownsville PUB will only be billed for actual work and services completed. All actual out of pocket expenses incurred in the course of this engagement will be billed at actual cost for reimbursement by Brownsville PUB. Consultant is willing to adjust the proposed scope and the related fee to meet the specific needs of Brownsville PUB. Total billings for this work scope shall not exceed the above estimate **without Brownsville PUB’s written approval.**

**EXHIBIT “C”**

**SCHEDULE FOR PROFESSIONAL  
CONSULTING SERVICES: ECONOMIC  
ANALYSIS OF POWER SUPPLY**

Consultant understands that the scope of services outlined herein should be completed within. Consultant proposes to initiate the Project after both parties have signed the contract, subject to Brownsville PUB’s written authorization to proceed. It is understood that Consultant’s ability to complete the tasks within the established time frame is dependent, in large part, on the receipt of any existing, available, and necessary data from Brownsville PUB at the beginning of the Project, and Brownsville PUB’s timely response with review comments and input.

The term of this contract shall be from \_\_\_\_\_ through \_\_\_\_\_.

## EXHIBIT "D"

### DATA SECURITY REQUIREMENTS

#### 1. Definitions.

Unless defined in the Contract or elsewhere in this Exhibit, capitalized terms used herein shall have the meanings set forth in this Section 1.

**"Authorized Employees"** means Consultant's employees who have a need to know or otherwise access Personal Information to enable Consultant to perform its obligations under the Contract.

**"Authorized Persons"** means (A) Authorized Employees; and (B) Consultant's permitted contractors, agents, own service providers, as each is specified on Attachment 1 to this Exhibit D who have a need to know or otherwise access Personal Information to enable Consultant to perform its obligations under the Contract, and who are bound in writing by confidentiality and other obligations sufficient to protect Personal Information in accordance with the terms and conditions of the Contract.

**"Highly Sensitive Personal Information"** means (A) an individual's government-issued identification number (including social security number, driver's license number, or state-issued identification number); (B) financial account number, credit card number, debit card number, or credit report information, with or without any required security code, access code, personal identification number, or password that would permit access to an individual's financial account; (C) biometric, genetic, health, medical, or medical insurance data; (D) geolocation data; or (E) information regarding racial or ethnic origin, religious beliefs, sex life or sexual orientation, union membership, or citizenship or immigration status.

**"Personal Information"** means information provided to Consultant by or at the direction of Brownsville PUB, information which is created or obtained by Consultant on behalf of Brownsville PUB, or information to which access was provided to Consultant by or at the direction of Brownsville PUB, in the course of Consultant's performance under the Contract that: (A) identifies or can be used to identify an individual (including, without limitation, names, signatures, addresses, telephone numbers, email addresses, and other unique identifiers); or (B) can be used to identify or authenticate an individual (including, without limitation, employee identification numbers, government-issued identification numbers, passwords or pins, user identification and account access credentials or passwords, financial account numbers, credit report information, student information, biometric, health, genetic, medical, or medical insurance data, answers to security questions, an individual's internet activity or similar interaction history, inferences drawn from other personal information to create consumer profiles, geolocation data, an individual's commercial, employment, or education history, and other personal characteristics and identifiers), in case of both subclauses (A) and (B), including, without limitation, all Highly Sensitive Personal Information. Brownsville PUB's business contact information is not by itself deemed to be Personal Information.

**"Security Breach"** means (A) any act or omission that compromises either the security, confidentiality, availability, or integrity of Personal Information or the physical, technical, administrative, or organizational safeguards put in place by Consultant (or any Authorized Persons), or by Brownsville PUB should Consultant have access to Brownsville PUB's systems, that relate to the protection of the security, confidentiality, availability, or integrity of Personal Information, (B) receipt of a complaint in relation to the privacy and data security practices of Consultant (or any Authorized Persons), or (C) a breach or alleged breach of the Contract relating to confidentiality, privacy, and data security practices.

Without limiting the foregoing, a compromise shall include any unauthorized access to or disclosure or acquisition of Personal Information.

2. Standard of Care.

A. Consultant acknowledges and agrees that, in the course of its engagement by Brownsville PUB, Consultant may create, receive, or have access to Personal Information. Consultant shall comply with the terms and conditions set forth in the Contract in its creation, collection, receipt, transmission, storage, disposal, use, and disclosure of such Personal Information and be responsible for any unauthorized creation, collection, receipt, transmission, access, storage, disposal, use, or disclosure of Personal Information under its control or in its possession by all Authorized Persons. Consultant shall be responsible for, and remain liable to, Brownsville PUB for the actions and omissions of all Authorized Persons concerning the treatment of Personal Information as if they were Consultant's own actions and omissions.

Personal Information is deemed to be Confidential Information of Brownsville PUB and is not confidential information of Consultant. In the event of a conflict or inconsistency between this Exhibit and the confidentiality or compliance with law sections of the Contract, the terms and conditions set forth in this Exhibit shall govern and control.

B. In recognition of the foregoing, Consultant agrees and covenants that it shall:

- i. keep and maintain all Personal Information in strict confidence, using such degree of care as is appropriate to avoid unauthorized access, use, or disclosure;
- ii. not create, collect, receive, access, or use Personal Information in violation of law;
- iii. use and disclose Personal Information solely and exclusively for the purposes for which the Personal Information, or access to it, is provided pursuant to the terms and conditions of the Contract, and not use, sell, rent, transfer, distribute, or otherwise disclose or make available Personal Information for Consultant's own purposes or for the benefit of anyone other than Brownsville PUB, in each case, without Brownsville PUB's prior written consent; and
- iv. not, directly or indirectly, disclose Personal Information to any person other than its Authorized Persons, including any, subcontractors, agents, its own service providers, or auditors (an "**Unauthorized Third Party**"), without Brownsville PUB's prior written consent unless and to the extent required by government authorities or as otherwise, to the extent expressly required, by applicable law, in which case, Consultant shall (a) use best efforts and to the extent permitted by applicable law notify Brownsville PUB before such disclosure or as soon thereafter as reasonably possible; (b) be responsible for and remain liable to Brownsville PUB for the actions and omissions of such Unauthorized Third Party concerning the treatment of such Personal Information as if they were Consultant's own actions and omissions; and (c) require the Unauthorized Third Party that has access to Personal Information to execute a written agreement agreeing to comply with the terms and conditions of the Contract relating to the treatment of Personal Information.

3. Information Security.

A. Consultant represents and warrants that its creation, collection, receipt, access, use, storage, disposal, and disclosure of Personal Information does and will comply with all applicable federal and state privacy and data protection laws, as well as all other applicable regulations and directives.

B. Consultant shall implement and maintain a written information security program including appropriate policies, procedures, and risk assessments that are reviewed at least annually.

C. Without limiting Consultant's obligations under section 3(A), Consultant shall implement administrative, physical, and technical safeguards to protect Personal Information from unauthorized access, acquisition, or disclosure, destruction, alteration, accidental loss, misuse, or damage that are no less rigorous than accepted industry practices, and shall ensure that all such safeguards, including the manner in which Personal Information is created, collected, accessed, received, used, stored, processed, disposed of, and disclosed, comply with applicable data protection and privacy laws, as well as the terms and conditions of the Contract.

If, in the course of its engagement by Brownsville PUB, Consultant has access to or will collect, access, use, store, process, dispose of, or disclose credit, debit, or other payment cardholder information, service provider shall at all times remain in compliance with the Payment Card Industry Data Security Standard ("PCI DSS") requirements, including remaining aware at all times of changes to the PCI DSS and promptly implementing all procedures and practices as may be necessary to remain in compliance with the PCI DSS, in each case, at Consultant's sole cost and expense.

D. At a minimum, Consultant's safeguards for the protection of Personal Information shall include: (i) limiting access of Personal Information to Authorized Persons; (ii) securing business facilities, data centers, paper files, servers, backup systems, and computing equipment, including, but not limited to, all mobile devices and other equipment with information storage capability; (iii) implementing network, application, database, and platform security; (iv) securing information transmission, storage, and disposal; (v) implementing authentication and access controls within media, applications, operating systems, and equipment, including the use of multifactor authentication for access to any Personal Information; (vi) encrypting Personal Information stored on any media; (vii) encrypting Personal Information when transmitted; (viii) strictly segregating Personal Information from information of Consultant or its other customers so that Personal Information is not commingled with any other types of information; (ix) conducting risk assessments, penetration testing, and vulnerability scans and promptly implementing, at Consultant's sole cost and expense, a corrective action plan to correct any issues that are reported as a result of the testing; (x) implementing appropriate personnel security and integrity procedures and practices, including, but not limited to, conducting background checks consistent with applicable law; and (xi) providing appropriate privacy and information security training to Consultant's employees.

E. During the term of each Authorized Employee's employment by Consultant, Consultant shall at all times cause such Authorized Employees to abide strictly by Consultant's obligations under the Contract. Consultant further agrees that it shall maintain a disciplinary process to address any unauthorized access, use, or disclosure of Personal Information by any of Consultant's officers, partners, principals, employees, agents, or contractors. Upon Brownsville PUB's written request, Consultant shall promptly identify for Brownsville PUB in writing all Authorized Employees as of the date of such request.

Upon Brownsville PUB's written request, Consultant shall provide Brownsville PUB with a network diagram that outlines Consultant's information technology network infrastructure and all equipment used in relation to fulfilling its obligations under the Contract, including, without limitation: (i) connectivity

to Brownsville PUB and all third parties who may access Consultant's network to the extent the network contains Personal Information; (ii) all network connections, including remote access services and wireless connectivity; (iii) all access control measures (for example, firewalls, packet filters, intrusion detection and prevention services, and access-list-controlled routers); (iv) all backup or redundant servers; and (v) permitted access through each network connection.

4. Security Breach Procedures.

A. Consultant shall:

i. Provide Brownsville PUB with the name and contact information for one or more employees of Consultant who shall serve as Brownsville PUB's primary security contact and shall be available to assist Brownsville PUB twenty-four (24) hours per day, seven (7) days per week as a contact in resolving obligations associated with a Security Breach;

ii. Notify Brownsville PUB of a Security Breach as soon as practicable, but no later than twenty-four (24) hours after Consultant becomes aware of it; and

iii. Notify Brownsville PUB of any Security Breaches by telephone at the following number: [ENTER TELEPHONE NUMBER], with a copy by email to the individual identified in the Notices section of the Contract.

B. Immediately following Consultant's notification to Brownsville PUB of a Security Breach, the Parties shall coordinate with each other to investigate the Security Breach. Consultant agrees to fully cooperate with Brownsville PUB in Brownsville PUB's handling of the matter, including, without limitation: (i) assisting with any investigation; (ii) providing Brownsville PUB with physical access to the facilities and operations affected; (iii) facilitating interviews with Consultant's employees and others involved in the matter; and (iv) making available all relevant records, logs, files, data reporting, and other materials required to comply with applicable law, regulation, industry standards, or as otherwise reasonably required by Brownsville PUB.

C. Consultant shall at its own expense use best efforts to immediately contain and remedy any Security Breach and prevent any further Security Breach, including, but not limited to taking any and all action necessary to comply with applicable privacy rights, laws, regulations, and standards. Consultant shall reimburse Brownsville PUB for all actual costs incurred by Brownsville PUB in responding to, and mitigating damages caused by, any Security Breach, including all costs of notice and/or remediation pursuant to Section 4(D).

D. Consultant agrees that it shall not inform any third party of any Security Breach without first obtaining Brownsville PUB's prior written consent. Further, Consultant agrees that Brownsville PUB shall have the sole right to determine: (i) whether notice of the Security Breach is to be provided to any individuals, regulators, law enforcement agencies, consumer reporting agencies, or others as required by law or regulation, or otherwise in Brownsville PUB's discretion; and (ii) the contents of such notice, whether any type of remediation may be offered to affected persons, and the nature and extent of any such remediation.

E. Consultant agrees to maintain and preserve all documents, records, and other data related to any Security Breach.

F. Consultant agrees to fully cooperate at its own expense with Brownsville PUB in any litigation, investigation, or other action deemed necessary by Brownsville PUB to protect its rights relating to the use, disclosure, protection, and maintenance of Personal Information.

In the event of any Security Breach, Consultant shall promptly use its best efforts to prevent a recurrence of any such Security Breach.

5. Oversight of Security Compliance.

Upon Brownsville PUB's written request, to confirm Consultant's compliance with the Contract, as well as any applicable laws, regulations, and industry standards, Consultant grants Brownsville PUB or, upon Brownsville PUB's election, a third party on Brownsville PUB's behalf, permission to perform an assessment, audit, examination, or review of all controls in Consultant's physical and/or technical environment in relation to all Personal Information being handled and/or services being provided to Brownsville PUB pursuant to the Contract. Consultant shall fully cooperate with such assessment by providing access to knowledgeable personnel, physical premises, documentation, infrastructure, and application software that processes, stores, or transports Personal Information for Brownsville PUB pursuant to the Contract. In addition, upon Brownsville PUB's request, Consultant shall provide Brownsville PUB with the results of any audit by or on behalf of Consultant performed that assesses the effectiveness of Consultant's information security program as relevant to the security and confidentiality of Personal Information shared during the course of the Contract, including but not limited to any Service Organization Controls (SOC) Type 2 audit.

6. Return or Destruction of Personal Information.

At any time during the term of the Contract at Brownsville PUB's request or upon the termination or expiration of the Contract for any reason, Consultant shall, and shall instruct all Authorized Persons to, promptly return to Brownsville PUB all copies, whether in written, electronic, or other form or media, of Personal Information in its possession or the possession of such Authorized Persons, or securely dispose of all such copies, and certify in writing to Brownsville PUB that such Personal Information has been returned to Brownsville PUB or disposed of securely. Consultant shall comply with all directions provided by Brownsville PUB with respect to the return or disposal of Personal Information.

7. Equitable Relief.

Consultant acknowledges that any breach of its covenants or obligations set forth in this Exhibit D may cause Brownsville PUB irreparable harm for which monetary damages would not be adequate compensation and agrees that, in the event of such breach or threatened breach, Brownsville PUB is entitled to seek equitable relief, including a restraining order, injunctive relief, specific performance, and any other relief that may be available from any court, in addition to any other remedy to which Brownsville PUB may be entitled at law or in equity. Such remedies shall not be deemed to be exclusive but shall be in addition to all other remedies available at law or in equity, subject to any express exclusions or limitations in the Contract to the contrary.

8. Material Breach.

Consultant's failure to comply with any of the provisions of this Exhibit D is a material breach of the Contract. In such event, Brownsville PUB may terminate the Contract effective immediately upon written notice to Consultant without further liability or obligation to Consultant.

**Attachment 1**

**Consultant's Service Providers**