



**BROWNSVILLE NAVIGATION DISTRICT
OF CAMERON COUNTY, TEXAS**

**Request for Proposals
for
Insurance Consultant Services**

Deadline Date – 3:00PM - September 8, 2021

BROWNSVILLE NAVIGATION DISTRICT • 1000 Foust Road • Brownsville, TX 78521
(956) 831-4592 • (800) 378-5395 • Fax (956) 831-5006 • portofbrownsville.com

NOTICE

Notice is hereby given that sealed Proposals for Insurance Consultant Services will be received by the Brownsville Navigation District of Cameron County, Texas.

All Proposals must be sealed and delivered to the Brownsville Navigation District, *Director of Finance*, 1000 Foust Road, Brownsville, Texas, on or before 3:00PM on September 8, 2021

**All submittals must be clearly marked on the outside of the envelope:
"Proposal for Insurance Consultant Services"**

Proposals must comply with the requirements set out in the "Request for Proposals" which may be obtained from the **Director of Administrative Services, Margie Recio**, and/or the Port of Brownsville website.

No Proposal will be accepted via fax or electronic submission.

THE RIGHT IS HEREBY RESERVED by the Board of Commissioners to reject any and all Proposals.

SECTION I GENERAL INFORMATION AND INSTRUCTIONS

General

The Brownsville Navigation District d/b/a The Port of Brownsville (hereinafter referred to as the “District”) is soliciting Proposals for a qualified firm to serve as its Insurance Consultant to assist the District in the procurement of its property and liability insurance and fulfill ongoing consulting requirements. The initial contract term will be for a period of three years, renewable for one three-year period at the option of the District, upon the same terms and conditions.

1. Each Applicant will read these Specifications with care, since failure to meet each condition or a combination of specified conditions may invalidate the Proposal. **Any exceptions to terms requested herein must be clearly noted in writing and be included as a part of the submitted Proposal.**
2. **No telephone, fax or e-mail proposals will be accepted.** The District will not be responsible for missing, lost or late mail. Any Proposals received after the date and time set for the deadline for receipt of proposals will be returned to the Applicant unopened.
3. The RFP information is believed to be accurate and is based upon the latest available information, but it is not to be considered in any way as a warranty. Requests for additional information should be directed in writing by email to:

Margie Recio, Director of Administrative Services; mrecio@portofbrownsville.com
4. The District reserves the right to purchase more or less than what’s indicated on the solicitation, and the District reserves the right to not purchase anything under this solicitation.

Reservation of Rights

The District expressly reserves the right to:

- Accept one or more Proposal(s).
- Reject any and all Proposals received, or portion thereof.
- Cancel the entire RFP.
- Issue a subsequent RFP.
- Remedy technical errors in the RFP process.
- Waive informalities and irregularities.
- Contact any Proposer for clarification after the Proposals are opened.
- Negotiate with any, all, or none of the respondents to the RFP.
- Accept any Proposal in whole or part, whether there are negotiations subsequent to its receipt. If subsequent negotiations take place, they shall not constitute a rejection or an alternate RFP.
- Accept the Proposal deemed most advantageous to the District.

Timetable

1. These Specifications are to be released for action on or about August 20, 2021 .
2. The last date for written questions to be received from Applicants is September 1, 2021 .
3. The last date for the issuance of an addendum is September 3, 2021 .
4. **Proposals must be received by the District's *Director of Finance*, no later than September 8, 2021 .**
5. Applicants are cordially invited to the Proposal opening but are not required to attend.
6. It is anticipated that the award of the proposal will be made at a meeting of the District s Board of Commissioners to be held at September 15, 2021 .
Proposers are welcome to attend this meeting, but attendance is not required.
7. It is anticipated that the successful Applicant s will be notified on or about September 16, 2021 .

Public opening of RFP via telephone/video conference meeting

Applicants are cordially invited to the Proposal opening via telephone/video call **(attendance is optional)**.

Join by phone:

Dial-in number: (712) 770-4900

Participant Code:6870885

Preparation of Proposal

Submittals shall be prepared on the attached Proposal forms, if applicable, and with attachments as necessary to fulfill the specifications contained herein.

Submission of Proposal

5 copies of the Proposal shall be submitted in a **sealed envelope**. Each envelope or package must be addressed as follows:

**Brownsville Navigation District
Director of Finance
1000 Foust Road
Brownsville, Texas 78521**

On the front of each envelope shall be written the following words:

“
**Proposal for
Insurance Consultant Services**
”

Submittals by the Applicants in response to this RFP shall become the property of the District. The District shall not be responsible for the Respondent's costs associated with submitting of a response.

Authorized Signature

All Proposals must be signed by persons who have legal authority to bind the Applicant to items and prices that are reflected in the proposal.

Withdrawal of Proposal

Applicants may withdraw their Proposals at any time up to the time specified as the closing time for acceptance of proposals. However, no Applicant shall withdraw or cancel their proposal for a period of sixty **(60)** days after said closing date for acceptance of proposals. The successful Applicant shall not withdraw or cancel or modify their proposal, except at the request of the District, after having been notified that said proposal has been accepted by the District.

Interpretation of Specifications

If any person contemplating submitting a Proposal is in doubt as to the true meaning of any part of these Specifications, they may submit to **Margie Recio, Director of Administrative**

Services; mrecio@portofbrownsville.com

a written request for interpretation thereof. Requests for interpretation must be received September 1, 2021 . Proposers shall not seek to influence any District Board members or District staff, directly or indirectly through others, as such contact may result in disqualification.

Addendums to Request for Proposals

If it becomes necessary to revise any part of this RFP, a written addendum will be posted on the Port of Brownsville web site, under “Business with the Port/Procurement”. **It will be the responsibility of each Applicant to verify that they have received all addendums.** Applicants must acknowledge on the Applicant's Acknowledgement Form (**Attachment A**) the receipt of all addendums in order for their Proposal to be considered. The District is not bound by any oral representations, clarifications, or changes made in the written specifications by the District's employees.

Criteria Used in Evaluating Proposal

- Proposals will be carefully evaluated for compliance with the requirements evaluation criteria contained in the RFP Specifications.

Compliance with Laws

All Applicants involved shall observe and comply with all regulations, laws, ordinances, etc., of local, state, and federal governments as they apply to this proposal process.

Texas Ethics Commission Form 1295 Disclosures

Companies doing business with the Brownsville Navigation District, a governmental entity, are required to file a "Disclosure of Interested Parties Form" (Form 1295). The successful Applicant will be required to file a Form 1295 prior to the Board approving the award of the bid. Further information regarding this form may be found on the Texas Ethics website, and instructions will be provided.

Texas Government Code Chapter 2270 Prohibition on Boycotting Israel

Companies doing business with the Brownsville Navigation District, a governmental entity, are prohibited from boycotting Israel during the term of the purchase agreement resulting from this bidding process. Applicants will be required to provide a written verification that they do not boycott Israel and that they will not boycott Israel during the term of the agreement.

Award of the Proposal

Award shall be based on the RFP specifications and evaluation criteria. The District reserves the right to award the Proposal to multiple Applicants in order to obtain the best value for the District in the District's sole discretion.

Determination of Compliance with Specifications

The Director of Administrative Services or his designee will be responsible for assuring that the delivered product/service complies with the successful Applicants's Proposal and will make the final determination of compliance. This examination will take place on the date of delivery or within a reasonable time thereafter. If it is rejected for failure to comply with the Specifications, it shall be the responsibility of the Applicant to remove it from the District's premises at their expense.

Delivery

The successful Applicant will be expected to deliver the requested goods/services within the specified delivery period, if any.

Confidentiality

Applicants shall certify that any confidential information obtained from the District shall not be made available, reproduced, sold, distributed or otherwise published or disseminated to any person or entity, except as is necessary for the Applicant to provide the equipment/services required by the RFP. The Applicant must also agree to notify the District of any instances that the confidentiality of any information to which it has been given access has been breached.

Terms of Payment

Funds will be paid until completion, acceptance and fulfillment of the purchase obligation to the District.

Billing address for invoices under this RFP is:

Brownsville Navigation District

Finance Department

1000 Foust Road

Brownsville, TX 78521

Electronic invoicing may be submitted to vendor@portofbrownsville.com

SECTION II SPECIFICATIONS

SPECIFICATIONS

The information provided in this Request for Proposals is only to be used for the purpose of preparing a proposal or response detailing your firm's experience, expertise and services available to the Brownsville Navigation District in advising and placing the District's primary or excess workers' compensation, marine, property, equipment, liability (general, auto, public officials, cyber security, crime and environmental), and other policies as may be needed.

Consultant MUST have ten (10) or more years of experience with accounts the size and type of the District or larger. For information regarding the District, please visit the District's website www.portofbrownsville.com. The bulk of the District's insurance policies currently cover the period of June 2 through June 1, a detailed listing of the current insurance policies is included in the RFP.

RESTRICTION OF COMMUNICATION

After this RFP has been issued, Consultants are prohibited from communicating with District staff regarding the RFP or Proposals, with the following exceptions:

- Questions and clarifications. The District will accept written questions about this RFP and about any matter related to the scope of work through 3:00 pm on September 1, 2021. Questions must be e-mailed to: mrecio@portofbrownsville.com (Oral instructions or information concerning the RFP given by District staff or personnel will not bind the District and should not be considered authoritative when assembling RFP packages.)
- A Consultant, who has a concern about whether or not the District has received their Proposal, may contact the District at (956) 831-4592 for this limited purpose.
- Consultants may be contacted by the Evaluation Committee during any finalist interviews.

The District shall not schedule meetings with representatives of any Consultant to discuss proposals and Consultant shall not contact District employees to explain, clarify, or discuss their proposals before contract award, except as set out in this section. Violation of this provision may lead to disqualification from consideration.

NO LOBBYING AFTER SUBMISSION OF PROPOSAL

Upon submittal of your proposal, except to verify receipt of your proposal, neither you nor your agents shall contact District staff regarding your proposal or the evaluation and selection process. Any Consultant who violates this no-lobbying rule may have their proposal disqualified. If additional information is required or desired, the District will initiate the contact.

Information contained in proposals may not be disclosed to anyone other than District staff involved in the evaluation process until a contract is awarded.

Consultants shall not offer any gratuities, favors or anything of monetary value to any former or current Trustee, officer, or employee of the District for influencing consideration of either their proposals or other proposals submitted.

DURING THE RFP PROCESS PROPOSERS WILL HAVE NO CONTACT WITH ANY INSURER WHATSOEVER TO DISCUSS THE DISTRICT AND/OR ITS CURRENT OR FUTURE INSURANCE PROGRAM.

EVALUATION CRITERIA

The District will conduct a comprehensive, fair, and impartial evaluation of all proposals received in response to this RFP. The District will analyze each proposal to determine overall responsiveness and qualifications under the RFP. The District may select all or some of the proposers for in-person presentations.

Evaluation criteria includes the items listed below. Final approval is subject to the discussion and consideration by the Board.

- **Capability and resources to provide the requested services and information contained in the Insurance Consultant Questionnaire: (50 pts)**
 - Background of Consultant and support personnel, including professional qualifications.
 - Other available resources, including total number of employees, number and location of offices, and affiliated companies.
- **Relevant Experience (Port authorities): (30 pts)**
 - Relevant experience.
 - Specific experience with port authorities and terminal operators, including problems experienced with those clients, proposed solutions, and results. If no experience with port authorities or terminal operators, provide the same information about specific experience with public entities.
 - Provide 3 client references with contact names, telephone numbers, and email addresses.
- **Cost: (20 pts)**

The District reserves the right to require each Consultant, at their expense, to validate claims made concerning capabilities, performance, service features, and any other relevant statements. Validations shall be in the form of references, personal interviews, demonstrations or any other relevant method the District deems appropriate.

CONTRACT AWARD

Subject to approval by the Board, a contract will be awarded to the Consultant whose proposal is deemed to offer the best value to the District with regard to the evaluation factors set forth in this RFP.

Prior to award of the contract, the selected Consultant must furnish the District with a "Certificate of Status" showing its existence or authority to transact business in Texas. An out-of-state entity must be registered to do business in Texas and furnish the District with a "Certificate of Registration." **However, Consultants need not provide these certificates as a part of the proposal.**

Consultant agrees to obtain written approval from the District prior to communicating with any media source or issuing any press releases, articles, or publications relating to services rendered pursuant to this RFP.

Consultant warrants by their submission of a Proposal that any services furnished under the contract do not infringe upon or violate any patent, copyright, trade secret, or any other proprietary right of any third party. In the event of any claim for infringement or violation of any patent, copyright, trade secret, or other proprietary right by any third party against the District, the District shall promptly notify Consultant. Consultant shall hold harmless, indemnify and defend the District from such claim.

The laws of the State of Texas, excluding its conflict of laws provisions, govern this RFP and any resulting contract.

- A. The selected Consultant shall execute a contract with the District, substantially in the form of Attachment E, no more than five (5) business days after the District Board approves contract award. Contract documents are not binding on the District until:
 - 1. The Board approves the contract by voting in public session,
 - 2. The contract is executed by both the District and Consultant, and
 - 3. District's legal counsel approves as to the form of the contract documents.
- B. It is expressly understood and agreed that Consultant and all persons designated by it to provide services in connection with the contract is and shall be deemed to be an independent contractor, responsible for its respective acts, errors, or omissions, and that the District shall in no way be responsible for the Consultant's actions. Neither party hereto has authority to bind the other or to hold out to third parties that it has such authority.
- C. Consultant shall obtain and maintain in full force and effect for the duration of the contract, and any extension hereof, at Consultant's sole expense, Professional Liability insurance coverage written by companies authorized and admitted to do business in the State of Texas, and/or otherwise acceptable to the District's Administration.

SECTION III SCOPE OF SERVICES

The following services will be required to support the efforts to obtain primary, excess, specialized, or difficult-to-place insurance and other related services associated with the District's insurance program.

DEVELOPMENT

Consultant shall work closely with District's Administration to identify and evaluate the District's risk exposures, provide professional advice regarding the appropriate types and levels of coverage, as well as retention levels, and assist in the development of Requests for Proposals (including insurance specifications and underwriting criteria) to secure primary or excess insurance for the District's insurable risks. The objective is to place insurance in accordance with the desired retentions and limits designated by the District. Consultant shall make available to the District all resources at its disposal to collect, organize, and review all data placed into any Request for Proposals.

IMPLEMENTATION

Consultant shall market the District's account and assist in soliciting proposals from qualified carriers. Marketing shall include, but not be limited to, the following:

- Canvassing insurance markets
- Reviewing suitable manuscript policies
- Negotiations on behalf of the District
- Providing consultation and professional advice on proposed changes or enhancements to the program
- Providing ongoing advisory services concerning proposed changes or enhancements to the program for the duration of the contract.

BID OF INSURANCE PROGRAM

Consultant shall represent the District in all phases of this project. Direct negotiations with the insurers will take place only with the direction of the District. Placement of any program of insurance will require Requests for Proposals being sent directly to insurance market underwriters and the Consultant must assure that the process complies with the District's Procurement Policy and Procedures. Consultant shall assist the District's Administration in the review and evaluation of proposals received, providing recommendations for contract award, and responding to questions from the District's executive management.

ADMINISTRATION

Consultant shall continue to act in an advisory and consulting role to the District for the duration of the contract to ensure that the selected insurance program remains the most appropriate, cost effective, and responsive to the District's needs. Minimum services required include:

- Ensure the receipt of all binders, policies, policy endorsements, etc. within a designated time frame, verify their accuracy, and obtain necessary revisions.
- Analyze insurance market trends and report to the District as to the effect those trends will have on pricing and coverage availability.
- Provide premium estimates for the District's budget process.
- Assist in the renewal process by developing project timelines, as well as preparing data for renewal process (e.g., updated statement of values, underwriting data, etc.).

- Prepare policy/coverage summaries.
- Respond to changing needs of the District with regard to policy changes or endorsements.
- Monitor financial condition of carriers on the District's account.
- Provide insurance certificate management for all District lessees, contractors and vendors.

OTHER SERVICES

Consultant must be available to serve in an ongoing consulting capacity to the District on insurance or other risk management issues on such projects as the District may request including, but not limited to:

- Respond to requests for information by the District's Administration and/or Port Director.
- Attend meetings with District staff, if needed.
- Identify markets for specialty coverage for the District and/or contractors doing business with the District.
- Assist the District in the assessment of the financial strength of insurance companies, risk retention and purchasing groups, captive insurers, and other traditional and non-traditional insurance mechanisms.
- Assist in evaluating proposals from potential contractors for risk management related issues such as third-party claims administration.
- Provide training opportunities to District staff on insurance and risk management matters.
- Participate in on-site inspections and provide advice on safety/loss control topics.
- Prepare a periodic analysis of losses and explain how these losses may affect the District's renewal posture.
- Utilize forensic accounting and claims services and effectively quantify large losses; present insurance claims on the District's behalf; assist in obtaining loss settlements.
- Present a formal annual report to the District detailing the status of its insurance programs, activities, accomplishments, and goals for the coming year.
- Review contracts for insurance requirements for contractors and assist the District in development of standard insurance requirements, including insurance provisions in the District's Tariff and policies.

REPORTING

Consultant shall provide draft and final reports for workers' compensation, general liability, automobile liability and other relevant liability policies to the District's Administration within six weeks of request.

CLAIMS AUDIT SERVICES

Consultant shall provide for and include annual claims administration audit services within their proposal. Upon written request by the District's Administration, Consultant shall arrange for and coordinate an annual claims audit (workers' compensation, general liability, auto liability and other relevant liability policies). Consultant shall provide draft and final audit reports to the District's Administration within 60 days of this request, prior to beginning each year of the contract.

INSURANCE PROGRAMS IN PLACE AT 08/20/21

| Insurer | Line of Coverage | Coverage Term |
|---|--|---------------------|
| Lloyds of London | Port Liability and Excess including Rail liability within port confines/ Protection and Indemnity / Sudden & Accidental Pollution / Maritime Employers Liability / Employee Benefits Liability / Charterer's Liability / Marina Operators Liability / Law Enforcement, Errors & Omissions Liability and Public Officials Liability | 06/02/21 - 06/01/22 |
| Lloyds of London | Property Damage. Real and Personal Property, Handling Equipment, Including Boiler / Machinery Breakdown, Business Interruption / Extra Expense , Hull & Machinery | 06/02/21 - 06/01/22 |
| Lloyds of London | Terrorism | 06/02/21 - 06/01/22 |
| AIG | Crime | 06/01/21 - 06/01/22 |
| AIG | Fiduciary | 06/01/21 - 06/01/22 |
| Cowbell Cyber | Cyber | 06/02/21 - 06/01/22 |
| TML | Workers Compensation | 10/01/20 - 10/01/21 |
| TML | Auto Liability and Physical Damage | 10/01/20 - 10/01/21 |
| The Hartford | Travel | 01/01/21 - 01/01/24 |
| Western Surety Company | Official Bond and Oath | 05/21/20 - 05/21/24 |
| Western Surety Company | Official Bond and Oath | 05/21/18 - 05/21/22 |
| Western Surety Company | Official Bond and Oath | 05/21/20 - 05/21/24 |
| Western Surety Company | Official Bond and Oath | 05/16/18 - 05/16/22 |
| Western Surety Company | Official Bond and Oath | 05/21/20 - 05/21/24 |
| CNA Surety Bond / Western Surety Company | Notary Public Errors and Omissions Group Policy | 04/01/21 - 04/01/22 |

For additional information on limits and premium please send request to Director of Administrative Services

SECTION IV PROPOSAL FORMS

Attachments to this RFP that are required:

1. Respondent's Acknowledgement Form
2. Vendor Registration and Conflict of Interest Questionnaire
3. Government Code Chapter 2270 and 2252 Disclosure Statement
4. Statement of Non-Collusion
5. **Executive Summary:** State your understanding of this project and proposed means of accomplishing the project. Summary shall include a restatement of the required work, the anticipated approach, and any unique problems and proposed solutions. Consultants must state specifically what areas of knowledge and discipline they are applying and how they will handle areas outside their base of experience.
6. Insurance Consultant Questionnaire: Please state the question and then your response.
7. Annual Fee (all-inclusive fee, for each individual year)
8. Consultant Contract

The following required forms can also be found at www.portofbrownsville.com – Business With the Port / Vendor Information

- Vendor Registration Form
- Conflict of Interest Questionnaire

BROWNSVILLE NAVIGATION DISTRICT
Respondent's Acknowledgment Form

Having carefully examined the information, notices and specifications and conditions contained in this package, the undersigned Applicant's agent or representative hereby proposes and agrees to comply with these Specifications at the prices quoted. The Applicant affirms that, to the best of their knowledge, the submitted Proposal has been arrived at independently and is submitted without collusion to obtain information or gain any favoritism that would in any way limit competition or give them an unfair advantage over other Applicants in the award of this RFP.

Addendums received:

| |
|-------------------------|
| Vendor: |
| Address: |
| City, State, Zip Code: |
| Signature of Applicant: |
| Title with Company: |



To Vendors Doing Business with Brownsville Navigation District:

The Texas legislature passed two pieces of legislation that affect the relationship between the Brownsville Navigation District and its vendors. The Board of Commissioners of the Brownsville Navigation District has incorporated these new requirements into the *Code of Ethics* already in place for the District.

The District will now require that any vendor seeking to do business with the Brownsville Navigation District must file certain documents on an annual basis in order to be able to be awarded a purchase contract or a purchase order for goods or services. These forms are:

1. Vendor Registration Form
2. Conflict of Interest Questionnaire

These forms must be re-filed on an annual basis. Copies of the required forms and a full copy of the *Code of Ethics* are available on the District's website at:

www.portofbrownsville.com

Conflict of Interest Questionnaires can be found at the Texas Ethics Commission web site at:

<http://www.ethics.state.tx.us/forms/CIQ.pdf>

Conflict of Interest Questionnaires must be filed in regard to the Brownsville Navigation District "local government officers" which include the Navigation District Commissioners, the Port Director and CEO and the Deputy Port Directors. A listing of these persons is enclosed. Completed forms are to be filed with my office.

Please do not hesitate to contact me should you have any questions regarding these forms.

Sincerely yours,

Lorena Hernandez, CPA

Director of Finance

(956) 838-7041 Fax (956) 831-5106

lhernandez@portofbrownsville.com

encl:

Brownsville Navigation District
1000 Foust Road / Brownsville, Texas 78521 / (956) 831-4592 / (800) 378-5395 / Fax (956) 831-5106
www.portofbrownsville.com

BROWNSVILLE NAVIGATION DISTRICT ADMINISTRATION
"LOCAL GOVERNMENT OFFICERS"
Board of Navigation and Canal Commissioners

Sergio Tito Lopez
Chairman

RRalph Cowen
Vice Chairman

Esteban Guerra
Secretary of the Board

JJohn Wood
Commissioner

JJohn Reed
Commissioner

Administration

Eduardo A. Campirano – Port Director & CEO
Melinda Rodriguez --Deputy Director of Administration
Arturo Gomez - Deputy Director of Operations

Other Administrative Employees

Ariel ChavezII, PE/RPLS – Director of Engineering Services
Michael Davis – Harbor Master
Margie Recio – Director of Administrative Services
Lorena Hernandez, CPA – Director of Finance
Carlos L. Garcia – Chief of Police
JJose Herrera – Director of Facilities Maintenance
Jorge Montero – Director of Communications
Antonio Rodriguez – Director of Cargo Services
Vacant – Director of Special Projects
MMartha M. Gonzalezz– Manager of Real Estate Services

Brownsville Navigation District Vendor Registration Form

Please complete this form to give the District your contact information for use during an RFP/RFB process or to open or update a vendor account

| | |
|---|--|
| Date: | Name of Person Providing Information: |
| If you are currently participating in an RFP process for the District, please indicate the RFP title: | |
| If you are interested in receiving a notice when an RFP is available, please indicate your areas of interest: | |
| <input type="checkbox"/> Construction Contracts | <input type="checkbox"/> Security Services |
| <input type="checkbox"/> Property/Liability Insurance | <input type="checkbox"/> Bank Depository |
| <input type="checkbox"/> Group Insurance | Other: |
| <input type="checkbox"/> Salvage Offerings | |
| <input type="checkbox"/> Uniform Service | |

| | |
|------------------|-------------------|
| Vendor Name | Web Site |
| Contact Person: | Fax Number: |
| Phone Number: | eMail Address: |
| Mailing Address: | Physical Address: |

| | |
|---|---------------------------------|
| Form of Business <i>(Individual/Sole Proprietor/Partnership/Corporation/Other)</i> | Taxpayer Identification Number: |
|---|---------------------------------|

Please return this form by fax to (956) 831-5106 or by email to vendor@portofbrownsville.com

Signature of Person Providing Information

| | |
|---|--|
| This vendor is not a Listed Company as per: Section 2252 of the Texas Government Code Federal Debarred List - SAM.gov | _____ Signature of Purchasing Auditor |
|---|--|

CONFLICT OF INTEREST QUESTIONNAIRE

FORM CIQ

For vendor or other person doing business with local governmental entity

OFFICE USE ONLY

Date Received

This questionnaire is being filed in accordance with chapter 176 of the Local Government Code by a person doing business with the governmental entity.

By law this questionnaire must be filed with the records administrator of the local government not later than the 7th business day after the date the person becomes aware of facts that require the statement to be filed. See Section 176.006, Local Government Code.

A person commits an offense if the person violates Section 176.006, Local Government Code. An offense under this section is a Class C misdemeanor.

1 Name of person doing business with local governmental entity.

2

☐

Check this box if you are filing an update to a previously filed questionnaire.

(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than September 1 of the year for which an activity described in Section 176.006(a), Local Government Code, is pending and not later than the 7th business day after the date the originally filed questionnaire becomes incomplete or inaccurate.)

3

Describe each affiliation or business relationship with an employee or contractor of the local governmental entity who makes recommendations to a local government officer of the local governmental entity with respect to expenditure of money.

4

Describe each affiliation or business relationship with a person who is a local government officer and who appoints or employs a local government officer of the local governmental entity that is the subject of this questionnaire.

CONFLICT OF INTEREST QUESTIONNAIRE

For vendor or other person doing business with local governmental entity

FORM CIQ

Page 2

5 Name of local government officer with whom filer has affiliation or business relationship. (Complete this section only if the answer to A, B, or C is YES.)

This section, item 5 including subparts A, B, C & D, must be completed for each officer with whom the filer has affiliation or business relationship. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer named in this section receiving or likely to receive taxable income from the filer of the questionnaire?

☐

Yes

☐

No

B. Is the filer of the questionnaire receiving or likely to receive taxable income from or at the direction of the local government officer named in this section AND the taxable income is not from the local governmental entity?

☐

Yes

☐

No

C. Is the filer of this questionnaire affiliated with a corporation or other business entity that the local government officer serves as an officer or director, or holds an ownership of 10 percent or more?

☐

Yes

☐

No

D. Describe each affiliation or business relationship.

6 Describe any other affiliation or business relationship that might cause a conflict of interest.

7

Signature of person doing business with the governmental entity

Date

Texas Government Code Sections 2270.002 and 2252.152

Disclosure Statement

The undersigned business entity hereby represents and warrants that the following statements are true and correct:

- (a) Pursuant to Section 2270.002, Texas Government Code, we hereby represent that we do not boycott Israel (as defined in Section 2270.002, Texas Government Code) and, subject to or as otherwise required by applicable Federal law, including, without limitation, 50 U.S.C. Section 4607, we agree not to boycott Israel during the term of this purchase agreement.
- (b) We hereby acknowledge that (a) we do not engage in business with Iran, Sudan, or any foreign organization and (b) we are not listed by the Texas Comptroller as described in Section 2252.152, Texas Government Code.

| |
|--|
| Company Name |
| Authorized Signature |
| Print Name and Position with the Company |
| Date |

Brownsville Navigation District Statement of Non-Collusion

The undersigned hereby certifies that they are duly authorized to execute this contract, that this company, corporation, firm, partnership or individual has not prepared this Proposal in collusion with any other Applicant or Port employee, and that the contents of this Proposal as to prices, terms or conditions of said Proposal have not been communicated by the undersigned nor by any employee or agent to any other person engaged in this type of business prior to the official opening of this Proposal.

Company: _____

Address: _____

Phone: _____

Fax: _____

Applicant: _____

(Print Name)

Applicant: _____

(Signature)

Title: _____

Signature of Company Officer
Authorizing this
Proposal: _____

Company
Officer: _____

(Print Name)

Officer's
Title: _____

Note: This form must be filled out and submitted with the sealed proposal.

INSURANCE CONSULTANT QUESTIONNAIRE

The purpose of this Questionnaire is to assist the District in the initial stage of selecting an Insurance Consultant.

1. Name of Company:
2. Address:
3. Telephone:
4. If Joint Venture or Partnership, so state. List Prime firm and sub-firm(s) and state amount of work to be shared and area of work. Attach organizational chart and indicate Principal/Account Executives and their Primary Assistant.
5. Professional & Technical Insurance Capabilities
 - A. Provide a brief description and history of your firm including when founded, total employees, specialization, qualifications, ratings, etc.
 - B. List similar programs that your firm presently services. Provide the name of the account, number of years serviced, contact name, phone number, and email address.
 - C. Please provide an organizational chart, as well as resumes, identifying the names, titles, address, phone number, responsibilities, years of experience, education levels, professional designations, etc. of those individuals who would be specifically assigned to the overall and day-to-day administration of this account.
 - D. Describe your formalized risk identification method or best practice used in evaluating the exposures of your clients, and more specifically, port authorities.
 - E. Describe how you would structure the District account and explain your rationale.
 - F. If granted exclusive access to insurance markets, list the insurance markets you would approach. Specify the order of priority and the rationale for each. Identify the level of business (premium volume) you currently have with each company.
 - G. Identify any of the above listed markets you consider to be proprietary or exclusive.
 - H. Describe your ability and willingness to respond to items A-G of the Scope of Services listed in Section II.
 - I. Describe the types of risk management services you have provided to your clients and that would be available to the District, including but not limited to:
 - Appraisal services provided to value District's real and/or personal property
 - Calculation of maximum foreseeable loss and probably maximum loss estimates
 - Claim prevention services, including facility inspections and recommendation reports

- Risk surveys
 - Stewardship reports
 - Workers' compensation modification analysis
 - Cost associated with the provision of these services
- J. Give some examples of the types of loss control services you have provided to your clients and that would be available to the District. What cost would be associated with the provision of these services?
- K. Describe the contract analysis services you have provided to your clients and that would be available to the District. What cost would be associated with the provision of these services?
- L. Please state any special strengths of your firm that deserve consideration.
6. Managerial & Service Skills
- A. List what your firm believes to be the three most important responsibilities of a Consultant.
- B. Describe the internal service standards you have established for servicing your clients.
- C. What core services will you provide? Describe any additional services you offer or recommend and any associated cost.
- D. Describe the methods you use to keep your clients informed of changes occurring in the insurance industry.
- E. Provide examples where you initiated solutions for your clients before they were sought.
- F. To what extent will your senior management be involved in the servicing of this account?
- G. What is your normal timetable for collection of renewal data and presentation to carriers?
- H. Do you have a specific schedule for the provision of any services required?
7. Company Qualifications:
- Date Founded/Opened:
 - Total Number of Employees:
 - Number of Terminal Operators: _____
 - Number of Port Authorities: _____
 - Number of Public Entities: _____
 - Clients Premium Volume (P&C): \$_____
 - Approximate Total Premium: \$_____
 - Volume (all clients): \$_____
 - Approx. Average Account Size: \$_____
 - Largest Single Account: \$_____

8. List your firm's experience with port authorities, terminal operators & public entities including address, contact person, telephone number, email address, and length of relationship.

A.

B.

C.

D.

9. List the two (2) most recent port authority clients that did not renew their contracts for your services, including address, telephone number, contact person, and reason.

A.

B.

10. Does the company anticipate any mergers, transfer of organization ownership, management reorganization, or departure of key personnel within the next 12-24 months that may affect the organization's ability to carry out its responsibilities to the District?

11. Is your company, its affiliates, and/or subsidiaries subject to any contract that creates a conflict of interest with and/or prohibits or limits you, your company, its affiliates, and/or subsidiaries from providing services to the District?

Yes _____ No _____ If yes, please explain in detail.

12. Provide a statement of the company's financial responsibility and resources to undertake a contract of this magnitude.

13. Describe any litigation pending against your firm regarding the provision of property or liability insurance to any Port Authority.

14. Is the Company authorized and/or licensed to do business in Texas?

Yes _____ No _____ If yes, please provide more detail

15. Errors and Omissions Insurance: Carrier:

Amount: \$

Policy No.:

Limit: \$

16. Provide receipt acknowledging any Addenda or Amendments to this RFP, if applicable.

17. Provide relevant company brochures, annual reports and other applicable data.

18. Indicate the contact person whom the District can contact upon concerning your proposal.

Name/Title:

Address:

Telephone:

Email:

19. Have your company or its officers have ever been convicted of a felony or been involved in any claim or litigation against the District?

Yes_____ No_____ If yes, please provide detail.

20. DURING THIS RFP PROCESS, WE HAVE NOT, NOR WILL WE HAVE, CONTACT WITH ANY INSURER WHATSOEVER TO DISCUSS THE PORT AND/OR ITS INSURANCE PROGRAM.

THE ABOVE INFORMATION IS TRUE AND CORRECT.

Company Name

Signature

Name and Title

Date _____

ANNUAL FEE

| | | |
|---|--|---|
| Annual Consultant Fee (all-inclusive - list for each year) | | Payment Terms <i>(Annual/Quarterly/Monthly)</i> |
|---|--|---|

CONSULTANT CONTRACT

STATE OF TEXAS

COUNTY OF CAMERON

This agreement, hereinafter referred to as "Contract", is made and entered into this _____ day of _____, 2021, by:

**The Board of Commissioners
Brownsville Navigation District of Cameron County, Texas
1000 Foust Road
Brownsville, TX 78521**

Hereinafter called the "District", and
(enter Consultant's name and address)

Hereinafter called the "Consultant", such Consultant being hereinafter referred to in the masculine singular pronoun, whether an individual, a partnership or a corporation.

I. SCOPE OF SERVICES

- a. Consultant shall work closely with District's Administration to identify and evaluate District risk exposures, provide professional advice regarding the appropriate types and levels of coverage, as well as retention levels, and assist in the development of Request for Proposals, including insurance specifications and underwriting criteria, to secure primary, excess, specialized and difficult-to-place insurance for the District's insurable risks. The objective is to place insurance in accordance with the desired retentions and limits designated by District. Consultant shall make available to District all resources at its disposal to collect, organize, and review all data placed into any Request for Proposals.
- b. Consultant shall market the District account to qualified insurance companies. Marketing shall include, but not be limited to, the following: canvassing insurance markets; reviewing suitable manuscript policies; conducting negotiations on behalf of District; providing consultation and professional advice on proposed changes or enhancements to the program; and ongoing advisory services for the duration of the Contract concerning changes or enhancements to the program.
- c. Consultant shall represent District in all phases of placement of insurance. Direct negotiations with the insurance company will take place with the direction of District. Request for Proposals will be directed to insurance market underwriters for the placement of any insurance. Consultant shall assist District's Administration in the review and evaluation of proposals received, providing recommendations for contract award, and responding to questions from District's executive management regarding same.

- d. Consultant acknowledges that any resulting product from this Contract cannot be accepted nor bound until approved by the Board of Commissioners of the Brownsville Navigation District, hereinafter referred to as the “BOARD”. Consultant agrees that all procurement of insurance shall be in accordance with the Texas Local Government Code, the Texas Water Code and any other applicable law. Specifically, Consultant will assist District in publicly advertising for insurance quotations as required by Sections 60.404 and 60.405 of the Texas Water Code.
- e. Consultant shall continue to act in an advisory and consulting role to the District for the duration of this Contract to ensure that the selected insurance program remains the most appropriate, cost effective, and responsive to the District’s needs. Minimum services required include:
 - i. Ensure the receipt of all binders, policies, policy endorsements, etc. within a designated timeframe, verify their accuracy, and obtain necessary revisions.
 - ii. Analyze insurance market trends and report to the District as to the effect those trends will have on pricing and coverage availability.
 - iii. Provide timely premium estimates for the District’s budget process.
 - iv. Assist in the renewal process by developing project time lines, as well as prepare data for renewal process (e.g., updated statements of values, underwriting data).
 - v. Prepare policy/coverage summaries.
 - vi. Respond to changing needs of the District with regard to policy changes or endorsements.
 - vii. Monitor financial condition of carriers on the District account.
 - viii. Provide insurance certificate management for all District contractors and/or vendors.
- f. Provide reports for workers’ compensation, general liability, and automobile liability to the District’s Administration within six weeks of request.
- g. Consultant shall provide for and include annual claims administration audit services within their proposal. Upon written request by the District’s Administration, Consultant shall arrange for and coordinate an annual claims audit (workers’ compensation, general liability, auto liability and other relevant liability policies). Consultant shall provide draft and final audit reports to the District’s Administration within 60 days of this request, prior to beginning each year of the contract.
- h. Consultant must be available to serve in an ongoing consulting capacity to District on insurance or related issues on such projects the District may request, including, but not limited to:

- i. Respond to requests for information by the District's Administration.
- ii. Attend meetings with District Staff as requested.
- iii. Review and comment on actuarial reports.
- iv. Identify markets for specialty coverage for District and/or contractors doing business with the District.
- v. Assist the District in the assessment of the financial strength of insurance companies, risk retention and purchasing groups, captive insurers, and other non-traditional insurance mechanisms.
- vi. Assist in evaluating proposals from potential contractors for risk management related issues such as a third party claims administrator or medical cost containment providers.
- vii. Provide professional training opportunities to District risk management staff on insurance and risk management topics.
- viii. Participate in on-site inspections and provide advice on safety/loss control matters.
- ix. Prepare a periodic analysis of losses and explain how these losses may affect the District's renewal.
- x. Provide forensic accounting and claim consulting services to effectively quantify large losses; present insurance claims on the District's behalf; assist in obtaining loss settlements.
- xi. Present a formal annual report to the District detailing the status of its insurance programs, activities, accomplishments, and goals for the coming year.
- xii. Review contracts for insurance requirements for contractors and assist the District in development of standard insurance requirements.

II. TERM AND RENEWAL

- a. The initial term of the contract shall be for a period of three (3) years beginning _____ and terminating _____, unless renewal, extension, or earlier termination occurs pursuant to any other provision in this contract.
- b. This contract may be renewed and/or extended beyond the date stated above, under the same terms and conditions, subject to the mutual agreement of the parties and appropriation of funds by the Board of Commissioners, for one (1) additional three-year period. Should the parties agree to renew this Contract and the Board of Commissioners appropriate the necessary funds, the parties shall execute a written agreement establishing such mutual assent and the renewed and/or extended term.
- c. Notwithstanding anything in this Contract to the contrary, all obligations of the District hereunder are subject to the appropriation of sufficient funds for the payments by the Board of Commissioners. District shall have the right to terminate this Contract as of the end of any fiscal year should the Board of Commissioners in its sole discretion not appropriate funds for this Contract.

III. LICENSES AND CERTIFICATIONS

Consultant warrants and certified that Consultant and any other person designated to provide services hereunder has the requisite training, license and/or certification to provide said service.

IV. PAYMENT FOR SERVICES

- a. In consideration for services rendered by Consultant, the District shall pay an annual fee of _____ dollars (\$_____). Said total fee consists of all fees and other avenues of remuneration for all services Consultant has agreed to provide and District has requested.
- b. Consultant shall submit an annual invoice to the District.
- c. Consultant agrees that all labor, supervision of work, report or document reproduction, typing, travel, insurance, communication, computer access, materials, supplies, subcontractor cost, if any, and all other Consultant expenses necessary to complete the services stated in this contract shall be included in the cost stated in subsection a above.
- d. Payments to Consultant shall be in the amount shown by the billings and other documentation submitted in accordance with section b above and shall be subject to the District's approval. All services shall be performed to the District's satisfaction, and the District shall not be liable for any payment under this contract for services which are deemed unsatisfactory or which the District has not previously approved.
- e. The District shall not be obligated or liable under this contract to any party other than Consultant for payment of any monies or provision of any goods or services.
- f. With respect to any insurance placement or risk management services for which Consultant compensation is fee-based in whole or in part: Consultant will not execute or accept any monetary compensation pursuant to any (1) commissions, (2) market service agreement, (3) placement service agreement, or (4) agreement providing for any bonus, override or contingency that would be received from any type of intermediary or insurance company.

V. AMENDMENT

- a. This contract, together with its authorizing Minutes and exhibits, if any, shall constitute the full and final agreement between the parties hereto.
- b. Except where the terms of this contract provide otherwise, any amendment to this contract shall not be binding on the parties unless such amendment be in writing, executed by both the District and the Consultant and approved by the Board of Commissioners.
- c. It is understood and agreed by the parties hereto, that changes in local, state, and federal rules or laws applicable hereto, may occur during the term of this contract. Further, any such changes shall be automatically incorporated into this Contract without written amendment hereto, and shall become a part hereof as of the effective date of the rule, regulation or law.

VI. CONFIDENTIALITY

- a. No reports, information, project evaluation, project designs, data or any other documentation developed by, given to, prepared by, or assembled by Consultant under this contract shall be disclosed or made available to any individual or organization by Consultant without the express prior written approval of the District. In the event Consultant received any such request, Consultant shall immediately forward such request to the District.
- b. Consultant shall establish a method to secure the confidentiality of records and information that the Consultant may have access to in accordance with the applicable District, federal, state, and local laws, rules, and regulations. This does not limit the District's right of access to records or other information under this contract.

VII. OWNERSHIP OF DOCUMENTS

- a. All reports, information, and other data provided by, prepared or assembled by, for, or on behalf of Consultant under this contract, in whatsoever form and character produced, shall become the sole property of the District without restriction on future use.
- b. Consultant, at its sole cost and expense, shall deliver all such reports, information, or data to the District upon termination of this contract.
- c. No such report, information, nor data shall be the subject of any copyright or proprietary claim by Consultant.

VIII. SUBCONTRACTING

- a. Consultant may not subcontract any portion of the services to be performed hereunder without the District's prior written consent. The District expressly reserves the right to disapprove or withhold consent of any subcontract. In no event shall such written consent, if obtained, relieve Consultant from any obligations under this contract.
- b. Any work or services subcontracted by Consultant and approved by the District shall be by written contract, and unless the District grants a specific waiver in writing, shall be subject by its terms to each provision of this contract. Compliance by subcontractor with the provisions of said contract shall be the responsibility of the Consultant.
- c. In no event shall the District be obligated to any third party, including any subcontractor of Consultant, for performance of services or payment of any fees or expenses.

IX. INSURANCE

- a. Prior to the commencement of any work by Consultant under this contract, Consultant shall furnish an original completed Certificate(s) of Insurance form to the District. An agent authorized to bind the named underwriter and their company to the coverage, limits, and termination provisions shown thereon shall complete it; it shall contain all required information referenced or indicated thereon. The original certificate(s) or form must have the agent's original signature, including the signer's company affiliation, title and phone number, and mailed directly from the agent to the District. The District shall have no duty to pay or perform under

this contract until delivery of such certificate or form to the District and no officer or employee shall have authority to waive this requirement.

- b. The District reserves the right to review the insurance requirements of this section during the effective period of the contract and any extension or renewal thereof and to modify insurance coverage and their limits when deemed necessary and prudent by the District's Administration. Any modifications will be based upon changes in statutory law, court decisions, or circumstances surrounding this contract, but in no instance will the District allow modification whereupon the District may incur increased risk.
- c. Consultant's financial integrity is of interest to the District. Subject to Consultant's right to maintain reasonable deductibles in such amounts as are approved by the District, Consultant shall obtain and maintain in full force and effect for the duration of this contract, and any extension hereof, at Consultant's sole expense, insurance coverage written on an occurrence basis, by companies authorized to do business in the State of Texas and rated A-:VIII or better by A. M. Best Company and/or otherwise acceptable to the District's Administration in the following types and amounts:

| Type of Coverage | Limit of Liability |
|---|--|
| Worker's Compensation | Statutory |
| Employer's Liability | \$1,000,000.00 |
| Comprehensive General Liability | \$1,000,000.00/occurrence \$1,000,000.00/personal & advertising \$2,000,000.00/general aggregate |
| Business Auto Liability | \$1,000,000.00/occurrence |
| Coverage to include | |
| - All owned vehicles | |
| - All non-owned vehicles | |
| - All hired vehicles | |
| Insurance Agents and Consultants Errors and Omissions Insurance | \$10,000,000.00 each claim \$10,000,000.00 annual aggregate |

- d. Consultant agrees that with respect to the above-required insurance, all insurance contracts and Certificate(s) of Insurance will contain the following provisions:
 - i. Name District, officers, employees, agents, volunteers, and elected representatives as additional insureds as respect to operations and activities of, or on behalf of, the named insured performed under contract with the District, with the exception of the workers' compensation and errors and omissions policies.
 - ii. Consultant's insurance shall be deemed primary/non-contributory with respect to any insurance or self-insurance carried by the District for liability arising out of operations under the contract with the District.
 - iii. All insurance carried by Consultant will provide a waiver of subrogation in favor of the District.
- e. Consultant shall notify the District in the event of any notice of cancellation, non-renewal or material change in coverage and shall give such notices not less than thirty (30) days prior to the change, or ten (10) days' notice for cancellation due to

non-payment of premiums, which notice must be accompanied by a replacement Certificate of Insurance. All notices shall be given to the District at the following address:

**Brownsville Navigation District
1000 Foust Road
Brownsville, TX 78521**

- f. If Consultant fails to secure and/or maintain the aforementioned insurance or endorsements, the District may obtain such insurance, and deduct and retain the amount of the premiums for such insurance from any sums due under the contract. The procurement of said insurance by the District is an alternative to other remedies the District may have, and it not the exclusive remedy for failure of Consultant to secure and/or maintain said insurance or endorsements. In addition to any other remedies the District may have upon Consultant's failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, the District shall have the right to order Consultant to stop work hereunder, and/or withhold any payment(s) which become due to Consultant hereunder until Consultant demonstrates compliance with the District's requirements.
 - g. Nothing herein contained shall be construed as limiting in any way the extent to which Consultant may be held responsible for payments of damages to persons or property resulting from Consultant's or its subcontractors' performance of the work covered under this contract.
- X. INDEMNITY
- a. Consultant covenants and agrees to FULLY INDEMNIFY, DEFEND, and HOLD HARMLESS, the District, the Board of Commissioners, and the employees, officers, directors, volunteers and representatives, individually or collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal and bodily injury or death and property damage, made upon the District, directly or indirectly arising out of, resulting from or related to Consultant's activities under this contract, including any acts or omissions of Consultant, any agent, officer, director, representative, employee contractor or subcontractor of Consultant, and their respective officers, agents, employees, directors and representatives while in the exercise or performance of the rights or duties under this contract, all without, however, waiving any governmental immunity available to the District under Texas law and without waiving any defenses of the parties under Texas law. IT IS FURTHER COVENANTED AND AGREED THAT SUCH INDEMNITY SHALL APPLY EVEN WHERE SUCH COSTS, CLAIMS, LIENS, DAMAGES, LOSSES, EXPENSES, FEES, FINES, PENALTIES, ACTIONS, DEMANDS, CAUSES OF ACTION, LIABILITY, AND/OR SUITS ARISE IN ANY PART FROM THE NEGLIGENCE OF THE DISTRICT, THE BOARD OF COMMISSIONERS, AND THE EMPLOYEES, OFFICERS, DIRECTORS, VOLUNTEERS AND REPRESENTATIVES UNDER THIS CONTRACT. The provisions of this INDEMNITY are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity. Consultant shall promptly advise the District in writing of any claim or demand

against the District or Consultant known to Consultant related to or arising out of Consultant's activities under this contract and shall see to the investigation and defense of such claim or demand at Consultant's cost. The District shall have the right, at its option, and at its own expense, to participate in such defense without relieving Consultant of any of its obligations under this paragraph.

- b. It is the EXPRESS INTENT of the parties to this contract, that the INDEMNITY provided for in this section (Section X), is an INDEMNITY extended by Consultant to INDEMNIFY, PROTECT, and HOLD HARMLESS the District from the consequences of the District's OWN NEGLIGENCE, provided however, that the INDEMNITY provided for in this section SHALL APPLY only when the NEGLIGENT ACT of the District is a CONTRIBUTORY CAUSE of the resultant injury, death, or damage and shall have no application when the negligent act of the District is the sole cause of the resultant injury, death, or damage. Consultant further AGREES TO DEFEND AT ITS OWN EXPENSE, and ON BEHALF OF THE DISTRICT AND IN THE NAME OF THE District, an claim or litigation brought against the District, the Board of Commissioners, and the employees, officers, directors, volunteers and representatives, in connection with any such injury, death, or damage for which this INDEMNITY shall apply, as set forth above.

XI. INDEPENDENT CONTRACTOR

It is expressly understood and agreed by the parties hereto that Consultant provides services under this contract as an independent contractor; responsible for its respective acts or omissions, and that the District shall in no way be responsible therefore. Neither party hereto has authority to bind the other or to hold out to third parties that it has authority to bind the other.

XII. NON-ASSIGNABILITY

Consultant must obtain the prior written consent of the District before assigning any interest in any part of this contract. The District expressly reserves the right to disapprove or withhold consent of any assignment. In no event shall such written consent, if obtained, relieve Consultant from any obligations under this contract.

XIII. RIGHT OF REVIEW AND AUDIT

Consultant and its subcontractors, if any, shall properly, accurately, and completely maintain all books, documents, papers, accounting records, and other evidence pertaining to this contract and shall make such materials available at their respective offices at all reasonable times and as often as the District may deem necessary during the contract term, including any renewal and extension hereof, for the purpose of auditing, examining and making copies by the District, and any of its authorized representatives.

XIV. COMPLIANCE

Consultant shall provide and perform all services under this contract in compliance with all applicable federal, state, and local laws, rules and regulations.

XV. TERMINATION

- a. For purposes of this contract, "termination" of this contract shall mean termination by expiration of the contract term or earlier termination pursuant to any of the provisions thereof.

- b. **Termination Without Cause:** Either party may terminate this contract by providing written notice to the other party, specifying the effective date of termination, which shall not be less than sixty(60) days from the date such notice is received. Such notice shall be given in accordance with Section XVII.
- c. **Termination For Cause:** In addition to any other provisions of this contract, the District may terminate this contract for any of the following:
 - i. Neglect or failure by Consultant to perform or observe any of the terms, conditions, covenants or guarantees of this contract or of any amendment between the District and Consultant; or
 - ii. Violation by Consultant of any law, rule, or regulation to which Consultant is bound or shall be bound under the terms of this contract.
 - iii. Upon a decision to terminate by the District, written notice of such shall be immediately provided to Consultant specifying the effective date of termination and the extent to which performance of work under this contract will be terminated.
 - iv. Upon request of notice to terminate, all finished or unfinished documents, data, studies, surveys, charts, plants, schedules, or other appended documentation, prepared by or on behalf of Consultant under this contract shall become the property of the District. Upon the District's request, Consultant shall deliver them to the District in a timely and expeditious manner, at Consultant's sole cost and expense.
 - v. Within thirty (30) days of the effective date of termination (unless an extension is authorized in writing by the District), Consultant shall submit to the District its claim, in detail, for the monies owed by the District for services performed under this contract through the effective date of termination, provided however, that such payment does not exceed the maximum amount set out in Section V. hereof.

XVI. CONFLICT OF INTEREST

Consultant warrants and certifies, and this contract is made in reliance thereon, that it, its individual officers, employees, and agents are neither officers nor employees of the District or any District agencies.

XVII. NOTICE

Any notice required, permitted or appropriate under this contract shall be deemed sufficient if in writing and sent certified mail, return receipt requested, postage prepaid, to the District or Consultant at the respective address set forth below, or to any other address of which written notice of changes is given:

| District | Consultant |
|---|------------|
| Brownsville Navigation District 1000 Foust Road Brownsville, TX 78521 | |

XVIII. CAPTIONS

The captions contained in this contract are for convenience of reference only and shall in no way limit or enlarge the terms and conditions of this contract.

XIX. SUCCESSORS AND ASSIGNS

This contract shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and their assigns, however, Consultant may not assign this contract without prior written consent of the District in accordance with Section XII.

XX. VENUE AND GOVERNING LAW

Venue for any legal action, claim, or dispute arising directly or indirectly as a result of this contract shall be in Cameron County, Texas. This contract is made and is to be performed in Cameron County, Texas, and is governed by the laws of the State of Texas.

XXI. AUTHORITY

The signer of this contract for Consultant represents and warrants that he has full legal authority to execute this contract on behalf of Consultant and to bind Consultant to the terms and conditions contained herein.

XXII. SEVERABILITY

If any term, provision, covenant or restriction of this contract is held by a court of competent jurisdiction to be invalid, illegal, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions set forth herein shall remain in full force and effect and shall in no way be affected, impaired or invalidated, and the parties hereto shall use their commercially reasonable efforts to find and employ an alternative means to achieve the same or substantially the same result as that contemplated by such term, provision, covenant or restriction. It is hereby stipulated and declared to be the intention of the parties that they would have executed the remaining terms, provisions, covenants and restrictions without including any of such that may be hereafter declared invalid, illegal, void or unenforceable

XXIII. ENTIRE AGREEMENT

This contract, together with its exhibits, if any embodies the final and entire agreement of the parties hereto, superseding all oral or written previous and contemporary agreements between the parties and relating to matters in this contract. No other agreements, oral or otherwise regarding the matters of this contract shall be deemed to exist or to bind the parties unless same is executed in accordance with Section V.

SIGNATURE PAGE - CONSULTANT

IN TESTIMONY OF WHICH, intending to be legally bound, this Instrument has been executed in duplicate copies, each of which shall be deemed to be an original, by and on behalf of the undersigned Consultant on the _____ day of _____, 2021

CONSULTANT: *(insert Consultant name and address)*

Signature

Written Name

Title

STATE OF _____)

COUNTY OF _____)

BEFORE ME, the undersigned authority on this day personally appeared:

Name

Title

Company Name

known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purpose and consideration therein expressed, in the capacity therein stated.

GIVEN UNDER MY HAND and seal of office this _____ day of _____, 2021.

NOTARY PUBLIC IN AND FOR _____ *COUNTY,* _____

MY COMMISSION EXPIRES _____

SIGNATURE PAGE – BROWNSVILLE NAVIGATION DISTRICT

IN TESTIMONY OF WHICH, intending to be legally bound, this Instrument has been executed in duplicate copies, each of which shall be deemed to be an original, by and on behalf

of the undersigned District on the _____ day of _____, 2021.

DISTRICT:

**Brownsville Navigation District
1000 Foust Road
Brownsville, TX 78521**

Signature

Written Name

Title

STATE OF TEXAS)

COUNTY OF CAMERON)

BEFORE ME, the undersigned authority on this day personally appeared:

**Sergio Tito Lopez
Chairman, Board of Commissioners
Brownsville Navigation District**

known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purpose and consideration therein expressed, in the capacity therein stated.

GIVEN UNDER MY HAND and seal of office this _____ day of _____, 2021.

NOTARY PUBLIC IN AND FOR CAMERON COUNTY, TEXAS

ATTEST:

Esteban Guerra, Secretary

Consultant Contract