STATE OF TEXAS
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LICENSED
PROFESSIONAL ENGINEER
7/23/20

CITY OF AUSTIN
AUSTIN WATER

PROJECT MANUAL
Technical Specifications

VOLUME 1 of 3

2021 Waterline On-Call Services
Indefinite Delivery/Indefinite Quantity

FDU NUMBER: 3920-2207-8220
C.I.P. PROJECT NUMBER: 2231.390
SOLICITATION NUMBER: 6100 CLMC 813

CITY OF AUSTIN
AUSTIN WATER
P.O. BOX 1088
AUSTIN, TX 78767

The City of Austin is committed to compliance with the Americans with Disabilities Act. Reasonable modifications and equal access to communications will be provided upon request.

Table of Contents

Document Number	Date	Title

VOLUME 1 of 3

	04/29/2020	Table of Contents

BIDDING REQUIREMENTS, CONTRACT FORMS, & CONDITIONS OF THE CONTRACT

Specifications Division 0 - General Requirements

00020 IDIQ	04/03/2020	Invitation for Bids
00100	04/03/2020	Instructions to Bidders
00220	03/30/18	Geotechnical Data
00300U IDIQ	04/03/2020	Bid Form-Unit Price
	04/03/2020	Total Bid Form
00400	04/30/19	Statement of Bidder's Experience
00405	03/30/18	Certificate of Non-Suspension or Debarment
00410	09/17/18	Statement of Bidder's Safety Experience
00440	10/22/19	Affidavit - Prohibited Activities
00475	08/12/19	Nonresident Bidder Provisions
00500 IDIQ	08/12/19	Agreement
00610	02/04/20	Performance Bond
00620	02/04/20	Payment Bond
00630	10/22/19	Non-Discrimination and Non-Retaliation Certificate
00631	03/30/18	Title VI Assurances Appendix A
00632	03/30/18	Title VI Assurances Appendix E
00650	06/08/18	Certificate of Insurance
00670	01/11/19	Sales Tax Exemption Certificate
00680	03/30/18	Non-Use of Asbestos Affidavit (Prior to Construction)
00681	03/30/18	Non-Use of Asbestos Affidavit (After Construction)
00700	02/04/20	General Conditions
00810 IDIQ	04/29/2020	Supplemental General Conditions
00810A	09/01/17	Federal Aid Assurances
00820 IDIQ	03/30/18	Modifications to Bidding Requirements and Contract Forms
00830	02/04/20	Wage Rates and Payroll Reporting
00830HH	01/13/20	Wage Rates Highway Heavy
00840 IDIQ	04/29/2020	Construction Training Program Requirements
00900	01/11/19	Addendum (SAMPLE)

Specifications Division 1 - General Requirements

01010	02/04/20	Summary of Work
01050	10/19/15	Grades Lines & Levels
01095	07/21/03	Reference Standards and Definitions
01200	08/09/12	Project Meetings
01300	01/11/19	Submittals
01353	04/29/2020	Construction Equipment Emissions Reduction Plan
01380	08/09/12	Construction Photography & Videos
01500	08/12/19	Temporary Facilities
01505	08/12/19	Construction and Demolition Waste Management
01550	08/09/12	Public Safety and Convenience

01900	03/12/12	Prohibition of Asbestos Containing Materials
01900a	06/05/06	Statement of Non-Inclusion of Asbestos Containing Material (E/A Prior to Design)
01900b	06/05/06	Statement of Non-Inclusion of Asbestos Containing Material (E/A After Design)

VOLUME 2 of 3

City Standard Technical Specifications

101S	01/04/11	Preparing Right of Way
104S	09/26/12	Removing Portland Cement Concrete
201S	08/20/07	Subgrade Preparation
210S	02/24/10	Flexible Base
230S	08/20/07	Rolling (Flat Wheel)
232S	08/20/07	Rolling (Pneumatic Tire)
234S	08/20/07	Rolling (Tamping)
236S	08/20/07	Proof Rolling
301S	08/20/07	Asphalts, Oils, and Emulsions
306S	02/24/10	Prime Coat
307S	02/24/10	Tack Coat
315S	09/26/12	Milling Asphaltic Concrete Pavement and Non-P.C. Concrete Base
340S	09/26/12	Hot Mix Asphaltic Concrete Pavement
360S	09/26/12	Concrete Pavement
402S	11/13/07	Controlled Low Strength Material
403S	09/26/12	Concrete for Structures
406S	09/26/12	Reinforcing Steel
408S	11/13/07	Concrete Joint Materials
409S	11/13/07	Membrane Curing
410S	09/26/12	Concrete Structures
411S	11/13/07	Surface Finishes for Concrete
430S	11/15/11	P.C. Concrete Curb and Gutter
432S	01/04/10	P.C. Concrete Sidewalk
433S	12/09/08	P.C. Concrete Driveways
503S	02/17/00	Frames, Grates, Rings, and Covers
504S	02/24/10	Adjusting Structures
505S	02/24/10	Concrete Encasement and Encasement Pipe
506	03/15/11	Manholes
509S	09/26/12	Excavation Safety Systems
510	12/08/18	Pipe
511S	09/26/12	Water Valves
601S	11/14/16	Salvaging and Placing Topsoil
602S	06/16/08	Sodding for Erosion Control
604S	01/04/16	Seeding for Erosion Control
605S	06/21/07	Soil Retention Blanket
610S	12/07/18	Preservation of Trees and Other Vegetation
620S	01/04/16	Filter Fabric
628S	12/31/13	Sediment Containment Dikes
641S	06/21/07	Stabilized Construction Entrance
642S	09/01/11	Silt Fence
700S	09/26/12	Mobilization
703	09/22/88	Fencing for Excavation
803S	11/15/11	Barricades, Signs and Traffic Handling

Special Provisions to City Standard Technical Specifications

SP402S	10/16/17	Controlled Low Strength Material
SP505S	10/16/17	Concrete Encasement and Encasement Pipe
SP506	10/16/17	Manholes
SP509S	10/16/17	Excavation Safety Systems
SP510	10/16/17	Pipe
SP511S	10/16/17	Water Valves
SP700S	01/10/20	Mobilization
SP803S	10/16/17	Barricades, Signs and Traffic Handling

Special Specifications

SS520	10/16/17	Large Diameter Water Main Manned Entry
SS596S	10/16/17	High Density Polyethylene (HDPE) Pipe and Fittings, 8 In. Through 16 In.
SS597S	07/20/20	Water Main Replacement by Pipe Bursting
SS02225	10/16/17	Excavation and Backfill
SS02614	10/16/17	Temporary Waterline Stops
SS02667	06/07/20	Emergency Waterline Repairs

City Standard Technical Details

340S-1	09/29/99	HMAC Transverse Construction Joint
430S-1	09/29/99	Curb and Gutter Section
430S-2	01/04/10	Reinforced Curb and Gutter Section
430S-3	09/29/99	Curb Expansion Joint and Dowel Detail
430S-4	09/29/99	Concrete Backfill Under Curb and Gutter
430S-5	04/05/99	Reinforcing Bar Detail at Existing Curb and Gutter
432S-1	03/26/08	Sidewalk
432S-2A	06/21/07	Detectable Warning Paver (City Property/ Easements)
432S-3	03/13/06	Type I Curb Ramps – Full Intersection
432S-3A	03/13/06	Type I Curb Ramps – “T” Intersection
432S-3B	03/13/06	Type IA/IB Curb Ramps – Full Intersection
432S-3C	03/13/06	Type IA/IB Curb Ramps – “T” Intersection
432S-3D	03/13/06	Combined Curb Ramps – Full Intersection
432S-3E	03/13/06	Combined Curb Ramps – “T” Intersection
432S-3F	03/13/06	Combined Sidewalk Curb Ramps with Pavers
432S-3G	06/21/07	Combined Sidewalk Curb Ramp with Pavers within Limited ROW Only
432S-3H	08/20/07	Type I Ramps within PC/PT of Curb and Gutter
432S-5	09/14/05	Type I Sidewalk Curb Ramp
432S-5A	06/16/08	Type IA Sidewalk Curb Ramp with Left Flare
432S-5B	09/14/05	Type IB Sidewalk Curb Ramp
433S-1	10/19/09	Type I Driveway (1 & 2 Family Residential Use Only)
433S-1A	10/19/09	Flared Type I Driveway (1 & 2 Family Residential Use Only)
433S-2	02/24/10	Type II Driveway
503S-4S	02/14/02	Storm Drain Manhole Ring and 813 mm (32”) Cover
505S-1	08/18/00	Concrete Encasement
506S-4	08/31/11	Minor Manhole Adjustment and New Manhole Construction
510S-3	08/19/02	Typical Trench with Paved Surface
510S-5	03/13/06	Typical Trench with Unfinished Surface
510-6	02/11/86	Concrete Thrust Blocking

511-AW-01	05/18/16	Typical Gate Valve 4”-16”
511-AW-02	05/18/16	Fire Hydrant
511-AW-03	05/18/16	Drain Valve
511-AW-04	05/18/16	Air Release and Air/Vacuum Valve
511-AW-05	05/18/16	Automatic Flush Valve
520-AW-01A	11/07/18	Water/Wastewater Service on a Common Lot Line
520-AW-01B	08/16/19	Water Service & Meter Installation – 1” & Smaller Meters
610S-1	11/15/99	Tree Protection Fence Locations
610S-4	11/15/99	Tree Protection Fence Modified Type A – Chain Link
628S	03/27/00	Triangular Sediment Filter Dike
639S-1	08/24/10	Rock Berm
641S-1	05/23/00	Stabilized Construction Entrance
642S-1	09/01/11	Silt Fence
804S-1	01/04/11	Arterial One Lane Closure
804S-1	06/22/16	Bike Lane Closure and Bike Lane Closure with Adjacent Travel Lane 35 MPH or Less (10 of 13)
804S-1	06/22/16	Bike Lane Channelizing 40 MPH or Above (11 of 13)
804S-1	06/22/16	Traffic Encroachment Into Bike Lane; 35 MPH or Less (12 of 13)
804S-1	06/22/16	Single Lane Closure on a Three Lane Roadway w/Bike Lanes (13 of 13)
804S-2	03/13/06	Collector/Residential Street Flagging Operations
804S-3	03/13/06	Temporary Traffic Control Pavement Markings
804S-4	04/03/09	Safety Fence
804S-5	01/04/10	Channeling Devices
804S-6A	02/21/01	Low Profile Concrete Barrier Type I (Portable and Precast)
804S-6B	02/21/01	Low Profile Concrete Barrier Type II (Portable and Precast)
829S-1A	09/26/12	Bicycle Lane Markings
829S-1B	11/13/07	Bicycle Lane Markings and Signing at Intersections
1100S-1	01/04/10	Casting Adjustment
1100S-2	01/04/11	Flexible Base w/Asphalt Surface Trench Repair – Existing Pavement
1100S-3	09/14/05	Asphalt Overlay of Reinforced & Nonreinforced PC Pvt-Trench Repair
1100S-4	12/09/08	Temporary Trench Repair – Asphalt Surface
1100S-5	09/14/05	Full Depth Asphaltic Concrete Pavement Trench Repair
1100S-7	09/14/05	Street Repair Requirements Within Intersections
1100S-8A	02/24/10	Traffic Lane Replacement for Outer Lane Excavations
1100S-8B	02/24/10	Traffic Lane Replacement for Interior Lane Excavations

Austin Water General Construction Notes

Austin Water Waterline IDIQ General Construction Notes

VOLUME 3 of 3

03/01/17 **MBE/WBE Procurement Program Package**

END

INVITATION FOR BIDS

Section 00020-IDIQ

1. OVERVIEW AND PROJECT INFORMATION

Following is a summary of information for this Project. Bidder is cautioned to refer to other sections of the Project Manual, Drawings and Addenda (Bid Documents) for further details.

The City of Austin, hereafter called OWNER, is requesting sealed written Bids for furnishing all labor, materials, equipment, supervision, and incidentals, and for performing all Work required for the following:

Project:	2021 Waterline On-Call Services IDIQ
Located at:	Various Locations Within the City of Austin's City Limits and Extraterritorial Jurisdiction
CIP ID No.:	2231.390
Solicitation No.:	6100 CLMC 813

The Work generally consists of providing the following services, including but not limited to:

- Emergency on-call response services to repair and/or replace any necessary components of the Austin Water distribution system due to failure, leaks, line breaks, etc.
- Condition assessment, repair, and/or replacement of valves and manways throughout the Austin Water distribution system.
- Operation and maintenance support of Austin Water personnel on an as-needed basis.

2. CONTRACT TYPE

This Contract is an Indefinite Delivery, Indefinite Quantity (IDIQ) Contract. A Work Assignment will be issued to the CONTRACTOR for each specific Work Assignment location. The Work Assignment will include project location, Contract Time, engineering design documents, and other required documentation. The Contract Documents consist of all the applicable City of Austin standard details and specifications with the understanding that full design documents will be provided with each Work Assignment.

The CONTRACTOR is required to meet the OWNER in the field to discuss details of each potential Work Assignment. The final scope of the Work Assignment will be determined at that time and, if additional details are desired, the CONTRACTOR must request them at that time.

3. TERM OF THE CONTRACT

The Contract will be for an Initial Term of twelve (12) months, with option of two (2) possible twelve (12) month terms. Extension of the Contract will be at the mutual agreement of both the OWNER and the CONTRACTOR. If the CONTRACTOR chooses not to renew, a hold over extension of the Contract term for up to 120 calendar days may be implemented by the OWNER to allow time for re-bidding. The OWNER reserves the right not to offer an extension. Work Assignments may be issued at any time during the term of the Contract. Work Assignments not completed by the expiration date of the Contract are subject to the terms and conditions of the Contract which will continue in full force and effect.

4. CONTRACT AMOUNT

The initial Contract Amount will not exceed two million ($2,000,000) dollars for the initial Contract Term and two million ($2,000,000) dollars for each extension option for a total potential Contract Amount not to exceed six million ($6,000,000) dollars. In the event available funding during a term has been expended, the City may initiate the early execution of an available extension option. Funding may be increased subject to the availability of funds and further approval of the Austin City Council.

The CONTRACTOR will base its bid amount on the CONTRACTOR's unit prices and the estimated quantities of Work set forth in the Bid Form, which will only be used for the purpose of the comparison and evaluation of Bids. The OWNER will subsequently issue Work Assignments based on the OWNER's needs and not in accordance with the estimated quantities contained in the Bid documents up to the aggregated Contract Amount of six million ($6,000,000) dollars subject to further appropriations.

Each Work Assignment must be finally completed within the Contract Time established by the OWNER for each Assignment. The OWNER will consult with the CONTRACTOR regarding the duration of each Work Assignment, but the OWNER will have the ultimate discretion on the duration of the Assignment, which shall be reasonably determined. Work must continue through successive Working Days and approved working hours.

The unit prices bid by the successful bidder shall remain firm throughout the initial term of the Contract. Bid prices may be adjusted for Contract extensions on the basis of an increase or decrease of the existing prices upwards or downwards in accordance with the 20 City average Engineering News Record Construction Cost Index (CCI) (at the time of the notice of contract extension) divided by the current area CCI at the time of bid. The adjusted prices will be included in a change order and will remain firm throughout the Contract extension period. Upon receipt of the notice of the exercise of the option for an additional contract term by the OWNER, the CONTRACTOR must request a Bid price adjustment in writing or the then current Bid prices will remain in full force and effect. The prevailing wage rates, Section 00830, will be replaced at the time of an adjusted bid price increase with the then current prevailing wage rates.

5. BID DOCUMENTS

Bid Documents are obtained through the City's Vendor Connection website, log on www.austintexas.gov/financeonline/vendor_connection/index.cfm. A complete set of Bid Documents, including all sections of the Project Manual and Drawings, are included in the attachments section of each solicitation.

All addenda and answers to Bidders questions will also be posted in the attachments section for each solicitation on the City's Vendor Connection website.

6. SUBMISSION OF BIDS

Sealed Bids may be submitted to the Capital Contracting Office Bid Opening Desk located at One Texas Center, 505 Barton Springs Rd., Suite 1045-C, Austin, Texas 78704, or may be submitted electronically (see eResponse, Attachment 1 -Submitting Bids in Austin Finance Online).

Address for US Mail (If mailed to the physical address, the bid will be returned unopened)	
City of Austin	
Capital Contracting Office	
P. O. Box 1088	
Austin, Texas 78767-1088	

NOTE: Bids must either be received and time stamped in the Capital Contracting Office prior to the Due Date and Time or submitted electronically via Austin Finance Online. The time of record for those electronically submitted is the time received in Austin Finance OnLine. It is the responsibility of the Offeror to ensure that their Bid arrives at the reception desk in the Capital Contracting Office or electronically prior to the time and date indicated. Arrival at the City's mailroom, mail terminal, or post office box will not constitute the Proposal arriving on time.

Public Bid Opening Update

Due to the unprecedented event of COVID-19 and to help prevent the further spread, Capital Contracting Office will NOT be conducting an in person bid opening. Bidders must either submit their bids and compliance plans no earlier than 10:00 AM and prior to 2:00 PM on the date bids are due to One Texas Center, 505 Barton Springs Rd., Suite 1045-B, Austin, Texas 78704; or must submit Bids and Compliance Plans electronically via Austin Finance Online prior to 2:00 PM on the day proposals are due. Bids and compliance plans submitted after 2:00 PM on the date bids are due will not be accepted. The Capital Contracting Office will open both the sealed bids and bids received electronically via Austin Finance Online at 3:00 PM on the date bids are due.

Bidders may watch the bid opening online using the following Web link: CCO Web Bid Opening Click Here

Disclaimer: The result of the bid opening does not become final until all bids are verified, and the bid tab is certified. The pencil bid tab and certified bid tab will be posted in Austin Finance Online at the following link:

https://www.austintexas.gov/financeonline/account_services/solicitation/solicitations.cfm

ALL BIDS AND COMPLIANCE PLANS ARE DUE PRIOR TO (Austin time) 2:00 PM on September 3, 2020.

BIDS WILL BE OPENED AT (Austin time) 3:00 PM on September 3, 2020.

ALL BIDS AND COMPLIANCE PLANS NOT RECEIVED PRIOR TO THE DATE AND TIME SET FORTH ABOVE WILL NOT BE ACCEPTED FOR CONSIDERATION. The time stamp clock in SUITE 1045B is the time of record and is verified with www.time.gov, the official U.S. time. For Bids submitted electronically via Austin Finance Online, the time of record is the time received in Austin Finance Online.

7. VENDOR REGISTRATION AND NON-DISCRIMINATION

All CONTRACTORS must be registered to do business with OWNER prior to the Contract Award. All Subcontractors must be registered with the OWNER prior to execution of a contract. Prime Contractors are responsible for ensuring that their Subcontractors are registered as vendors with the City of Austin. Registration can be done through the OWNER's

on-line Vendor Registration system. Log onto and follow directions: https://www.ci.austin.tx.us/vss/Advantage.

The City of Austin, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

8. MBE/WBE PROCUREMENT PROGRAM

All City procurements are subject to the City's Minority-Owned and Women-Owned Business Enterprise Procurement Program found at Chapter 2-9-A of the City Code, as amended. The Program provides Minority-Owned and Women-Owned Business Enterprises (MBEs/WBEs) or Disadvantaged Business Enterprises (DBEs) full opportunity to participate in all City contracts. Goals for MBE/WBE or DBE participation are stated for each solicitation. Information on achieving the goals or documenting good faith efforts to achieve the goals are contained in the MBE/WBE Procurement Program Package or DBE Procurement Program Package attached to the solicitation. When goals are established, Bidders are required to complete and return the MBE/WBE or DBE Compliance Plan with their Bid. If a Compliance Plan is not submitted prior to the date and time set forth in the solicitation, the Bid will not be accepted for consideration. (See Section 00820 for MBE/WBE requirements on "no goal" solicitations.)

9. BID GUARANTY

All Bids shall be accompanied by an acceptable Bid guaranty in an amount of not less than five percent (5%) of the total Bid, as specified in Section 00100, Instructions to Bidders.

10. BONDS AND INSURANCE

Performance and payment bonds for the initial term of the Contract shall be executed on forms furnished by OWNER. Each bond shall be issued in an amount of one hundred percent (100%) of the not to exceed Contract Amount by a solvent surety company authorized to do business in the State of Texas and shall meet any other requirements established by law or by OWNER pursuant to applicable law. In the event that the Contract is renewed for additional one year terms, a new bond or rider to the then existing bond in the full amount of the total not to exceed Contract Amount must be provided for the additional term(s).

11. WAGE COMPLIANCE

Minimum insurance requirements are specified in Section 00810-IDIQ, Supplemental General Conditions. Prevailing wage rates have been established and are specified in Section 00830, Wage Rates and Payroll Reporting.

12. CONTRACT TIME

Contract Time is of the essence and all Work Assignments shall be completed within the number of days specified in the Notice to Proceed.

Work under this Contract will be issued as individual Work Assignments, as defined within

Supplemental General Conditions, Section 00810-IDIQ. In addition, Work to be performed is generally outlined in the Summary of Work, Section 01010. Work duration and designations of substantial and/or final completion will be specific to each Work Assignment. Failure by the CONTRACTOR to satisfy the substantial/final completion requirements of any Work Assignment may be cause to stop issuance of further Work Assignments. The CONTRACTOR shall note that there may be multiple individual Work Assignments active at any given time.

Work contained within individual Work Assignments will vary based on the scope of Work. An individual Work Assignment may designate a substantial and/or final completion date, after which liquidated damages will be assessed until substantial and/or final completion is achieved, in accordance with the Bid Form, Section 00300U-IDIQ.

In addition, the CONTRACTOR will be required to have someone available and on-call at all times during the Contract to provide emergency on-call services as discussed in Section 01010, Summary of Work - Emergency Response. A CONTRACTOR who fails to meet the emergency response obligations of this Contract may be found in breach of this Contract.

13. OWNER'S RIGHTS

OWNER reserves the right to reject any or all Bids and to waive any minor informality in any Bid or solicitation procedure (a minor informality is one that does not affect the competitiveness of the Bid).

14. PRE-BID CONFERENCE

A **non-mandatory** Pre-Bid Conference will be held on August 5, 2020, 10:00 AM (Austin time), via webinar and teleconference. Bidders may participate in the virtual pre-bid conference by clicking this link: Click Here. Please send an email to ivan.quinones@austintexas.gov with the subject line CLMC813, indicate in the body of the email your name, the firm you are representing, your contact information and whether you are a prime firm or subcontractor. Please send this by **5:00 pm** on the day of the virtual pre-bid meeting.

Attendance is not mandatory unless otherwise stated. Bidders must attend any mandatory Pre-Bid Conference and are encouraged to attend any non-mandatory Pre-Bid Conference to ensure their understanding of OWNER's bidding and contracting requirements, particularly MBE/WBE or DBE Procurement Program requirements. If the Pre-Bid Conference is mandatory the Bidder must arrive and sign-in within fifteen (15) minutes of the scheduled start time of the meeting, otherwise the Bidder will not be allowed to submit a Bid for the project.

15. ANTI-LOBBYING AND PROCUREMENT

On June 14, 2018, the Austin City Council adopted Ordinance No. 20180614-056 replacing Chapter 2.7, Article 6 of the City Code relating to Anti-Lobbying and Procurement. The policy defined in this Code applies to Solicitations for goods and/or services requiring City Council approval under City Charter Article VII, Section 15 (Purchase Procedures). The City requires Offerors submitting Offers on this Solicitation to certify that the Offeror has not in any way directly or indirectly had communication restricted in the ordinance section 2-7-104 during the No-Lobbying Period as defined in the Ordinance. The text of the City Ordinance is posted on the Internet at:

https://assets.austintexas.gov/purchase/downloads/New_ALO_Ordinance_No_20180614-056.pdf

16. AUTHORIZED CONTACT PERSONS

The persons listed below may be contacted for information regarding the Invitation for Bid.

PROJECT MANAGER: Jeff A. Kyle, P.E., phone 512-972-1180, email Jeff.Kyle@austintexas.gov

CAPITAL CONTRACTING OFFICE CONTACT: Ivan Quinones, phone 512-974-7202, email Ivan.Quinones@austintexas.gov

SMALL & MINORITY BUSINESS RESOURCES DEPARTMENT CONTACT: Rachelle Delouis, phone 512-974-1295, email Rachelle.Delouis@austintexas.gov

END

INSTRUCTIONS TO BIDDERS
Section 00100

1. PREPARATION OF BID

1.1 Bid Documents. Each Bidder must prepare its Bid on forms furnished by OWNER or as otherwise specified or permitted. Blank spaces for each item in Bid form must be filled. Bidder must submit a price for each item in Bid. In case of conflict between unit prices and extensions, unit prices shall govern. The Bid must be executed in the complete and correct legal name of individual, partnership, firm, corporation or other legal entity constituting the Bidder.

1.2 Vendor Registration. Prime Contractors must be registered with the OWNER prior to submitting a Bid electronically via Austin Finance Online. All CONTRACTORS must be registered to do business with OWNER prior to Contract Award. All Subcontractors must be registered with the OWNER prior to execution of a contract. Prime Contractors are responsible for ensuring that their Subcontractors are registered as vendors with the City of Austin. Registration can be done through the OWNER's on-line Vendor Registration system. Log onto https://www.austintexas.gov/financeonline/account_services/account/login.cfm and follow the directions.

1.3 Pre-Bid Conference. Unless otherwise notified, Bidders must attend the Pre-Bid Conference to ensure their understanding of OWNER's bidding and contracting requirements, particularly MBE/WBE Procurement Program requirements.

1.4 Sales Tax Exemption. The Owner is a tax-exempt organization as defined by Chapter 11 of the Property Tax Code of Texas. Bid prices shall not include sales tax on materials, supplies, or equipment that are incorporated into the real property interest of the OWNER or are otherwise completely used and consumed in the performance of the Contract. OWNER will furnish CONTRACTOR with a Sales Tax Exemption Certificate to be issued to Suppliers in lieu of the tax.

1.5 Minimum Wages. Workers on Project shall be paid not less than wage rates, including fringe benefits, as published by the Department of Labor (DOL) for Building Construction and Heavy and Highway Trades "AS APPLICABLE" and/or the minimum wage required by City of Austin Ordinance No. 20160324-015, whichever is higher. The Total Minimum Wage required can be met using any combination of cash and non-cash qualified fringe benefits provided the cash component meets or exceeds the minimum wage required.

1.6 Addenda. Bidder shall be knowledgeable of all Addenda issued and shall acknowledge all Addenda in spaces provided on Bid form. Further information regarding the Bid documents and the Project may be obtained from the Project Manager listed at the end of Section 00020, Invitation for Bids.

1.7 Required Items. Bids must include all specified items in this section and be submitted in accordance with paragraph No. 7 below. Any additional requirement to the bid submittal is specified in Section 00820. Any corrections to a Bid shall be initialed by the person signing the Bid.

1.8 Professional Services. Bidders must secure any required professional services that are defined as professional services under the Professional Services Procurement Act, Chapter 2254 of the Texas Government Code (for example: registered professional land surveyors and professional engineers) using the qualifications based selection process

prescribed by that chapter. (Note: It is a violation of State Law to solicit Bids for professional services.)

1.9 Further Information. Prospective Bidders desiring further information or interpretation of Project Manual or Drawings must make a written request for such information to OWNER addressed to the Authorized Contact Person listed in Section 00020 no later than seven (7) Working Days before Bid opening. Interpretation of Project Manual or Drawings will be made by Addendum only and obtained through the City's Vendor Connection website. Log on to: www.austintexas.gov/financeonline/vendor_connection/index.cfm. Any verbal communications will not be binding on the OWNER.

1.10 Anti-Lobbying and Procurement. Article 6, Chapter 2-7, City Code, repealed and replaced effective on June 25, 2018, prohibits lobbying activities or representations by Offerors during the No Lobbying Period as defined in the Ordinance.

1.10.1. FINDINGS; PURPOSE.

(A) The council finds that persons who enter a competitive process for a city contract voluntarily agree to abide by the terms of the competitive process, including the provisions of this article.

(B) The council finds that it is in the City's interest:

(i) to provide the most fair, equitable, and competitive process possible for selection among potential vendors in order to acquire the best and most competitive goods and services; and

(ii) to further compliance with State law procurement requirements.

(C) The council intends that:

(i) each response is considered on the same basis as all others; and

(ii) respondents have equal access to information regarding a solicitation, and the same opportunity to present information regarding the solicitation for consideration by the City.

1.10.2. APPLICABILITY.

(A) This article applies to all solicitations except:

(i) City social service funding;

(ii) City cultural arts funding;

(iii) federal, state or City block grant funding;

(iv) the sale or rental of real property;

(v) interlocal contracts or agreements; and

(vi) solicitations specifically exempted from this article by council.

(B) Absent an affirmative determination by the council, the purchasing officer has the discretion to apply this article to any other competitive process.

(C) City Code Section 1-1-99 (*Offenses; General Penalty*) does not apply to this article.

1.10.3. DEFINITIONS.

In this article:

(A) AGENT means a person authorized by a respondent to act for or in place of the respondent in order to communicate on behalf of that respondent. Each of the following is presumed to be an agent:

(i) a current full-time or part-time employee, owner, director, officer, member, or manager of a respondent;

(ii) a person related within the first degree of consanguinity or affinity to a current fulltime or part-time employee, owner, director, officer, member, or manager of a respondent;
(iii) a person related within the first degree of consanguinity or affinity to the respondent, if a respondent is an individual person; and Section 0200 V2, Solicitation Instructions 4 Rev. 06-26-2018
(iv) a lobbyist, attorney, or other legal representative of the respondent that has been retained by the respondent with respect to the subject matter of either the solicitation or the respondent's response to the solicitation.

(B) AUTHORIZED CONTACT PERSON means a City employee designated in a City solicitation as the point of contact for all purposes for that solicitation.
(C) CITY EMPLOYEE is defined in Section 2-7-2 (*Definitions*), and further includes an independent contractor hired by the City with respect to the solicitation.
(D) CITY OFFICIAL is defined in Section 2-7-2 (*Definitions*).
(E) NO-LOBBYING PERIOD means the period of time beginning at the date and time a solicitation is published and continuing through the earliest of the following:
(i) the date the last contract resulting from the solicitation is signed;
(ii) 60 days following council authorization of the last contract resulting from the solicitation; or
(iii) cancellation of the solicitation by the City
(F) PURCHASING OFFICER means the City employee authorized to carry out the purchasing and procurement functions and authority of the City.
(G) RESPONSE means a written offer or submission in reply to a solicitation.
(H) RESPONDENT means a person or entity that has timely submitted or subsequently timely submits a response to a City solicitation, even if that person subsequently withdraws its response or has been disqualified by the City for any reason. Respondent includes:
(i) a subsidiary or parent of a respondent;
(ii) a joint enterprise, joint venture, or partnership with an interest in a response and in which a respondent is a member or is otherwise involved, including any partner in such joint enterprise, joint venture, or partnership; and
(iii) a subcontractor to a respondent in connection with that respondent's response.
(I) SOLICITATION means an opportunity to compete to conduct business with the City that requires council approval under City Charter Article VII Section 15 (*Purchase Procedure*), and includes, without limitation:
(i) an invitation for bids;
(ii) a request for proposals;
(iii) a request for qualifications;
(iv) a notice of funding availability; and
(v) any other competitive solicitation process for which the purchasing officer, in the purchasing officer's sole discretion, affirmatively determines this article should apply in accordance with Section 2-B.

1.10.4. RESTRICTION ON LOBBYING.

Subject to the exclusions in Section 5 (*Permitted Communications*), during a no-lobbying period,

(A) a respondent or an agent shall not communicate directly with a City official or a City employee, or both in order to:

(i) provide substantive information about any respondent or response with respect to the solicitation to which the communication relates;
(ii) encourage the City to reject one or more of the responses to the solicitation to which the communication relates;
(iii) convey a complaint about the solicitation to which the communication relates; or
(iv) ask any City official or City employee to favor or oppose, recommend or not recommend, vote for or against, consider or not consider, or take action or refrain from taking action on any vote, decision, or agenda item regarding the solicitation to which the communication relates.

(B) a City official shall not contact or communicate with a respondent regarding a response or the solicitation to which the no-lobbying period applies;
(C) a City employee, other than the authorized contact person, shall not contact or communicate with a respondent regarding a response or the solicitation to which the no-lobbying period applies.

1.10.5. PERMITTED COMMUNICATIONS.

The following communications are permitted under this article at any time:
(A) any communication between a respondent or agent and any authorized contact person, including, without limitation and in accordance with regulation, any complaint concerning the solicitation;
(B) any communication between a respondent or agent and any person to the extent the communication relates solely to an existing contract between a respondent and the City, even when the scope, products, or services of the current contract are the same or similar to those contained in an active solicitation;
(C) any communication between a respondent or an agent and a City employee to the extent the communication relates solely to a non-substantive, procedural matter related to a response or solicitation;
(D) any communication required by or made during the course of a formal protest hearing related to a solicitation;
(E) any communication between a respondent or an agent and the City's Small & Minority Business Resources Department, that solely relates to compliance with Chapters 2-9A through 2-9D (*Minority-Owned and Women-Owned Business Enterprise Procurement Program*) of the City Code;
(F) any communication between an attorney representing a respondent and an attorney authorized to represent the City, to the extent the communication is permitted by the Texas Disciplinary Rules of Professional Conduct;
(G) any communication made by a respondent or an agent to the applicable governing body during the course of a meeting properly noticed and held under Texas Government Code Chapter 551 (*Open Meetings Act*);
(H) any communication between a respondent or an agent and a City employee whose official responsibility encompasses the setting of minimum insurance requirements for the solicitation to which the communication relates, to the extent the communication relates solely to the insurance requirements established by the City in the solicitation; and
(I) any contribution or expenditure as defined in Chapter 2-2 (*Campaign Finance*).

1.10.6. MODIFICATION OF RESTRICTION.

The purchasing officer may waive, modify, or reduce the requirements in Section 4 (*Restrictions on Lobbying*) in order to allow respondents to communicate with a City employee or a City official other than the authorized contact person when the purchasing officer determines, in writing, that the solicitation must be conducted in an expedited manner, including but not limited to a solicitation conducted for reasons of health or safety under the shortest schedule possible with no extensions. Any such modification authorized by the purchasing officer shall be stated in the solicitation.

1.10.7. NOTICE.

(A) Each solicitation shall include a notice advising respondents and prospective respondents:

(i) of the requirements of this article;

(ii) that any communication initiated by a City employee or City official, other than the authorized contact person, during the no-lobbying period regarding a response or the solicitation may result in a violation of Section 4(A) if the respondent subsequently lobbies that City employee or City official.

(B) The purchasing officer, or a City employee designated by the purchasing officer, shall provide weekly written notice, accessible to all City employees and City officials, of each solicitation for which the no-lobbying period is in effect.

1.10.8. DISCLOSURE OF VIOLATION.

A City official or a City employee other than the authorized contact person that becomes aware of a violation of Section 4 (*Restrictions on Lobbying*) shall notify the authorized contact person in writing as soon as practicable.

1.10.9. ENFORCEMENT.

(A) A respondent that has been disqualified pursuant to Section 10(A) (*Disqualification; Contract Voidable*) may appeal such disqualification to a subcommittee that is less than a quorum of the Ethics Review Commission established in Chapter 2-7, Article 2 (*Ethics Review Commission*), whose decision on appeal shall be final and binding. Any appeal must be filed in the manner prescribed by the Ethics Review Commission within 5 calendar days of the notice given by the purchasing officer pursuant to Section 10(B).

(B) The purchasing officer shall waive a violation of Section 4(A) if the violation was solely the result of communications initiated by a City official or a City employee other than the authorized contact person.

(C) The purchasing officer has the authority to enforce this article through rules promulgated in accordance with Chapter 1-2 (*Adoption of Rules*), which at a minimum shall include a notice and protest process for respondents disqualified pursuant to Section 10 (*Disqualification;Contract Voidable*), including:

(1) written notice of the disqualification imposed pursuant to Section 10 (*Disqualification;Contract Voidable*);

(2) written notice of the right to protest the disqualification imposed; and

(3) written notice of the right to request an impartial hearing process.

1.10.10. DISQUALIFICATION; CONTRACT VOIDABLE.

(A) If the purchasing officer finds that a respondent has violated Section 2-7-104(1), the respondent is disqualified from participating in the solicitation to which the violation related.
(B) The purchasing officer shall promptly provide written notice of disqualification to a disqualified respondent.
(C) If a respondent is disqualified from participating in a solicitation as a result of violating Section 2-7-104(1) and the solicitation is cancelled for any reason, that respondent is also disqualified from submitting a response to any reissue of the same or similar solicitation for the same or similar project. For the purposes of this section, the purchasing officer may determine whether any particular solicitation constitutes a "same or similar solicitation for the same or similar project".
(D) If a respondent violates Section 104(1) and is awarded a contract resulting from the solicitation to which the violation relates, the City may void that contract.
(E) Respondents that violate Section 2-7-104(1) three or more times during a five year period may be subject to debarment from participating in any new contracts with the City for a period of up to three years.

1.11 City's Minority-Owned and Women-Owned Business Enterprise / Disadvantaged Business Enterprise (MBE/WBE or DBE) Program Requirements. Good Faith Efforts. When a bidder cannot achieve the MBE/WBE or DBE goals or subgoals established for the project, the bidder must document its Good Faith Efforts to meet the goals or subgoals. Good Faith Effort evaluations will consider, at a minimum, the bidder's efforts to do the following:

1.11.1 Soliciting through at least two reasonable, available and verifiable means MBEs/WBEs within the Significant Local Business Presence boundaries at least seven (7) business days prior to the bid opening date to allow the MBEs/WBEs or DBEs to respond to the bid.

1.11.2 Providing interested MBEs/WBEs or DBEs adequate information about the bid documents and requirements, including addenda, in a timely manner to assist them in responding to the bid.

1.11.3 Negotiating in good faith with interested MBEs/WBEs DBEs that have submitted bids to the bidder.

1.11.4 Publishing notice in a local publication such as a newspaper, trade association publication or via electronic/social media.

1.11.5 Not rejecting MBEs/WBEs or DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities.

1.11.6 Making economically feasible portions of the work available to MBE/WBE or DBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available MBE/WBE or DBE subcontractors and suppliers, so as to facilitate meeting the goals or subgoals.

1.11.7 The ability or desire of the bidder to perform the project work with its own organization does not relieve the bidder of the responsibility to make Good Faith Efforts.

1.11.8 Bidders are not required to accept higher quotes in order to meet the goals

or subgoals.

1.11.9 Effectively using the services of Minority Person/Women community organizations; Minority Person/Women Contractors groups; local, state and federal Minority Person/Women business assistance offices; and other organizations to provide assistance in solicitation and utilization of MBEs, WBEs and/or DBEs.

1.11.10 In assessing minimum Good Faith Efforts, the OWNER may consider (1) whether the bidder sought guidance from the City of Austin Small and Minority Business Resources Department (SMBR) on any question regarding compliance with these requirements; and (2) the performance of other bidders in meeting the goals.

For additional information, refer to the MBE/WBE or DBE Compliance Program Requirements Volume of the Project Manual.

Bid shopping is not allowed in conjunction with this solicitation and may result in the disqualification of prospective bidders and subcontractors.

2. ESTIMATES OF QUANTITIES (UNIT PRICE CONTRACTS ONLY)

Quantities listed in unit price Bid form are to be considered approximate quantities and will be used only for comparison of Bids. Payment to CONTRACTOR will be made only for actual quantities of Work performed or materials furnished in accordance with Contract and it is understood that quantities may be increased or decreased as provided in Section 00700, General Conditions, and as may be modified by Section 00810, Supplemental General Conditions.

3. DRAWINGS, PROJECT MANUAL AND SITE (S) OF WORK

Before submitting a Bid, the Bidder shall carefully examine the Bid Documents, site(s) of the proposed Work, soils, and other conditions that may affect the performance of the Work to satisfy the Bidder as to character, quality and quantities of Work to be performed and materials to be furnished. By submitting a Bid, the Bidder will be deemed to have certified that the Bidder has complied with these requirements. If, during preparation of the Bid, the Bidder discovers any suspected discrepancies or errors, the Bidder must immediately notify the Authorized Contact Person in writing of the suspected discrepancy or error. Failure to provide written notice of any suspected discrepancies or errors may be cause for rejection of the Bid.

4. BID GUARANTY

All Bids shall be accompanied by a Bid guaranty in an amount of not less than five percent (5%) of the total Bid. Bid guaranty will be a Bid bond with Power of Attorney attached, issued by a solvent surety authorized under laws of the State of Texas and acceptable to OWNER. For Bidders electing to submit Bids and Bid Guaranties electronically via Austin Finance Online, Bid Guaranties will be verified by the Owner prior to bid certification and electronic copies of Bid Guaranties will not be returned to Bidders.

The Bid guaranty accompanying the Bid of the three (3) apparent low Bidders will be retained until Contract is awarded and successful Bidder executes Contract and furnishes required bonds and insurance, after which Bid guaranties will be returned to the Bidders. All other Bid guaranties will be returned after Bid certification. In the event that the Bidder to whom the Contract is awarded fails to execute the Contract within five (5) working days of receipt

of a complete set of Contract Documents whether in electronic or hard copy form, the Bidder agrees that the OWNER in its discretion may rescind the initial award and award the Contract to the next lowest responsible Bidder.

5. PERFORMANCE AND PAYMENT BONDS

When performance and/or payment bonds are required, each shall be issued in an amount equal to the Contract Amount as security for the faithful performance and/or payment of all Contractor's obligations under the Contract Documents. Performance and payment bonds shall be issued by a solvent corporate surety authorized to do business in the State of Texas, and shall meet any other requirements established by law or by OWNER pursuant to applicable law.

6. CONSIDERATION OF BID AMOUNT

For purpose of award, after Bids are opened, reviewed, and certified, the total amount of the Bid, including accepted Bid alternates, will be considered the amount of the Bid. Certified Bid tabulations will be made available to the public through the City's Vendor Connection website, log on www.austintexas.gov/financeonline/vendor_connection/index.cfm. OWNER reserves the right to reject any or all Bids and to waive any minor informality in any Bid or solicitation procedure (a minor informality is one that does not affect the competitiveness of the Bids).

7. SUBMISSION OF BID

Each Bid must be completed and signed by person(s) authorized to bind individual, partnership, firm, corporation, or any other legal entity submitting the Bid, and, shall include the following in one envelope or electronically via Austin Finance Online (see eResponse, Attachment 1 -Submitting Bids in Austin Finance Online):

7.1 One copy of Bid form (Section 00300L or 00300U) completed and signed.

7.2 Acknowledgment of receipt of Addenda issued in spaces provided in Bid form.

7.3 Required Bid guaranty (copy of Bid guaranty if submitted electronically via Austin Finance Online).

7.4 Required Information indicated in Drawings or Project Manual as specified in Section 00820.

7.5 One copy of Total Bid Form if bid is submitted electronically via Austin Finance Online.

Bid must be accompanied by an MBE/WBE or DBE Compliance Plan. Compliance Plans will either be submitted separately, in a second envelope or electronically via Austin Finance Online, prior to the date and time set forth in Section 00020, Invitation for Bids. The Compliance Plan forms are included in the MBE/WBE Procurement Program Package or DBE Procurement Program Package (a separately bound volume).

Bid shall include all specified items in this section submitted electronically via Austin Finance Online, or may be submitted to the Capital Contracting Office in a sealed envelope, clearly identified on outside as a Bid to OWNER, with Bidder's company name and address, project name, bid due date/time, signed acknowledgement of the number of Addenda received and authorized signature. Failure to submit Bid appropriately may subject Bidder to

disqualification.

Sealed Bids may be mailed using the address below:

Address for US Mail (If mailed to the physical address, the proposal will be returned unopened)	
City of Austin	
Capital Contracting Office	
P. O. Box 1088	
Austin, Texas 78767-8845	

NOTE: Bids must either be received and time stamped in the Capital Contracting Office prior to the Due Date and Time or submitted electronically via Austin Finance Online. The time of record for those electronically submitted is the time received in Austin Finance OnLine. It is the responsibility of the Offeror to ensure that their Bid arrives at the reception desk in the Capital Contracting Office or electronically prior to the time and date indicated. Arrival at the City's mailroom, mail terminal, or post office box will not constitute the Proposal arriving on time.

It is the sole responsibility of the Bidder to ensure timely delivery of Bid. OWNER will not be responsible for failure of service on the part of the U.S. Post Office, courier services, or any other form of delivery service chosen by the Bidder. (See Section 00820, Modifications to Bidding Requirements and Contract Forms, for modifications to solicitations without MBE/WBE or DBE goals.)

In submitting its Bid, Bidder certifies that it has not lobbied the City or its officials, managers, employees, consultants, or contractors in such a manner as to influence or to attempt to influence the bidding process. In the event it reasonably appears that the Bidder influenced or attempted to influence the bidding process, the City may, in its discretion, reject the Bid.

8. WITHDRAWAL OF BID

A Sealed Bid may be withdrawn by a Bidder, provided an authorized individual of the Bidder submits a written request to withdraw the Bid prior to the time set for opening the Bids. For withdrawal of electronic bids see eResponse, Attachment 1 -Submitting Bids in Austin Finance Online)

9. REJECTION OF BIDS

9.1 The following **will** be cause to reject a Bid:

9.1.1 Failure to submit Section 00300 (Bid Form) and signed by an individual empowered to bind the Bidder.

9.1.2 Bids which are not accompanied by acceptable Bid guaranty, with Power of Attorney attached, or a letter certifying the Bidder's ability to be bonded, from a surety company, in accordance with Paragraph 4 above.

9.1.3 More than one Bid for same Work from an individual, firm, partnership or corporation.

9.1.4 Evidence of collusion among Bidders.

9.1.5 Sworn testimony or discovery in pending litigation with OWNER which discloses misconduct or willful refusal by contractor to comply with subject contract or instructions of OWNER.

9.1.6 Failure to submit MBE/WBE or DBE Compliance Plan in accordance with the separately bound volume titled MBE/WBE Procurement Program Package or DBE Procurement Program Package.

9.1.7 Failure to have an authorized agent of the Bidder attend the mandatory Pre-Bid Conference, if applicable.

9.1.8 Bids received from a Bidder who has been debarred or suspended by OWNER's Purchasing Officer.

9.1.9 Bids received from a Bidder when Bidder or principals are currently debarred or suspended by Federal, State or City governmental agencies. (Applicable for Bid amounts equal to or in excess of $25,000.00).

9.1.10 Bids received from a Bidder, who is identified on a list maintained by the Texas Comptroller of Public Accounts as a company known to have contracts with or provide supplies or services to a foreign terrorist organization, unless otherwise exempted from sanctions by the United States government.

9.2 The following **<u>may</u>** be cause to reject a Bid:

9.2.1 Poor performance in execution of work under a previous City of Austin contract.

9.2.2 Failure to achieve reasonable progress on an existing City of Austin contract.

9.2.3 Default on previous contracts or failure to execute Contract after award.

9.2.4 Evidence of failure to pay Subcontractors, Suppliers or employees in accordance with Contract requirements.

9.2.5 Bids containing omissions, alterations of form, additions, qualifications or conditions not called for by OWNER, or incomplete Bids may be rejected. In any case of ambiguity or lack of clarity in the Bid, OWNER reserves right to determine most advantageous Bid or to reject the Bid.

9.2.6 Failure to acknowledge receipt of Addenda.

9.2.7 Failure to submit any of the items specified below in paragraph 11, "Submission of Post Bid Information".

9.2.8 Failure to identify a dollar amount (price) of a unit price(s) in the 00300U including all Bid Alternates in the Bid Form 00300U or 00300L.

9.2.9 Failure to submit post-Bid information within the allotted time(s) (see paragraph 11 for post-Bid requirements).

9.2.10 Failure to timely execute Contract after award.

9.2.11 Previous environmental violations resulting in fines or citations by a governmental entity (i.e. U.S. Environmental Protection Agency, Texas Commission on Environmental Quality, etc.).

9.2.12 Safety record as set forth in Section 00410, Statement of Bidder's Safety Experience.

9.2.13 Failure of Bidder to demonstrate the minimum experience required as specified in Section 00400 if that Section is included in the bidding documents.

9.2.14 Evidence of Bidder's lack of sufficient resources, workforce, equipment or supervision, if required by inclusion of appropriate attachments in Section 00400.

9.2.15 Evidence of poor performance on previous Projects as documented in Owner's project performance evaluations.

9.2.16 Unbalanced Unit Price Bid: "Unbalanced Bid" means a Bid, which includes a Bid that is based on unit prices which are significantly less than cost for some Bid items and significantly more than cost for others. This may be evidenced by submission of unit price Bid items where the cost are significantly higher/lower than the cost of the same Bid items submitted by other Bidders on the project.

10. PROTEST PROCEDURES

The OWNER's Capital Contracting Officer has the authority to settle or resolve any claim of an alleged deficiency or protest. The procedures for notifying OWNER of an alleged deficiency or filing a protest are listed below. If you fail to comply with any of these requirements, the Capital Contracting Officer may dismiss your complaint or protest.

10.1 Prior to Bid opening: If you are a prospective Bidder and you become aware of the facts regarding what you believe is a deficiency in the solicitation process before the Bid is opened, you must notify OWNER in writing of the alleged deficiency before that date, giving OWNER an opportunity to resolve the situation prior to the Bid opening.

10.2 After Bid opening: If you submit a Bid to OWNER and (1) you have been found non-responsive, or (2) you believe that there has been a deficiency in the solicitation process or the award, you have the opportunity to protest the solicitation process or the recommended award as follows:

10.2.1 You must file written notice of your intent to protest within four (4) calendar days of the date that you know or should have known of the facts relating to the protest. If you do not file a written notice of intent within this time, you have waived all rights to protest the solicitation process or the award.

10.2.2 You must file your written protest within fourteen (14) calendar days of the date that you know or should have known of the facts relating to the protest unless you know of the facts before the Bid has been opened. If you know of the facts before that date, you must notify OWNER as stated above.

10.2.3 You must submit your protest in writing and must include the following information:

.1 your name, address, telephone, and email address;
.2 the solicitation number and the CIP number, if applicable;
.3 a detailed statement of the factual grounds for the protest, including copies of any relevant documents.

10.2.4 Your protest must be concise and presented logically and factually to help with OWNER's review.

10.2.5 When OWNER receives a timely written protest, the Capital Contracting Officer will determine whether the grounds for your protest are sufficient. If the Capital Contracting Officer decides that the grounds are sufficient, the Capital Contracting Office will schedule a protest hearing, usually within five (5) working days. If the Capital Contracting Officer determines that your grounds are insufficient, you will be notified of that decision in writing.

10.2.6 The protest hearing is informal and is not subject to the Open Meetings Act. The purpose of the hearing is to give you a chance to present your case; it is not an adversarial proceeding. Those who may attend from OWNER are: representatives from the department that requested the purchase, the Law Department, the Capital Contracting Office, and other appropriate City staff. You may bring a representative or anyone else that will present information to support the factual grounds for your protest with you to the hearing.

10.2.7 A decision will usually be made within fifteen (15) calendar days after the hearing.

10.2.8 The Capital Contracting Officer will send you a copy of the hearing decision after the appropriate City staff has reviewed the decision.

10.2.9 When a protest is filed, OWNER usually will not make an award until a decision on the protest is made. However, OWNER will not delay an award if the City Manager or the Capital Contracting Officer determines that:

.1 OWNER urgently requires the supplies or services to be purchased, or
.2 Failure to make an award promptly will unduly delay delivery or performance.

In those instances, the Capital Contracting Office will notify you and make every effort to resolve your protest before the award.

The protest or notice of intent and the protest shall be submitted in writing to:

Address for Delivery Service:	Address for US Mail:
City of Austin	City of Austin
Capital Contracting Office	Capital Contracting Office
ATTN: Capital Contracting Officer	ATTN: Capital Contracting Officer
One Texas Center	P.O. Box 1088
505 Barton Springs Rd.	Austin, Texas 78767-1088
Suite 1045-A	
Austin, Texas 78704	
PHONE: 512/974-7141	

11. SUBMISSION OF POST BID INFORMATION

11.1 Prior to determination of the certified low Bidder, the three (3) apparent low Bidders

must submit to OWNER the following information within three (3) business days of receipt of notice of apparent low Bidder status by the OWNER:

11.1.1 One copy of Attachments A-I and any other specifically designated Attachments of the Statement of Bidder's Experience (Section 00400), completed and signed. (Unless provided to the contrary in Section 00820 Modifications to Bidding Requirements and Contract Forms). (Note: OWNER reserves the right to solely determine whether the comparable experience documentation provided by the Bidder is sufficient and relevant to the Work described in the Contract Documents for the Bidder to be considered a responsible Bidder.)

11.1.2 One Copy of the Certificate of Non-Suspension or Debarment (Section 00405), completed and signed. (Applicable for Bid amounts equal to or in excess of $25,000.00.)

11.1.3 One copy of Section 00410, Statement of Bidder's Safety Experience, including required attachments, completed and signed.

11.1.4 One copy of the Title VI Assurances Appendix A (Section 00631), completed and signed.

11.1.5 One copy of the Title VI Assurance Appendix E (Section 00632), completed and signed.

11.1.6 One copy of Exhibit A Federal Provisions (Section 00810A) completed and signed. (Federal projects only)

11.1.7 Such other information as is required to evaluate Bid or Bidder.

11.2 Upon notification of status as certified low Bidder, Bidder shall submit the following information to OWNER within three (3) business days:

11.2.1 Confirmation Letters between Bidder and all subcontractor(s) and all supplier(s) identified in the MBE/WBE Compliance Plan.

11.2.2 Section 00425A, Insurance Cost Form. For ROCIP projects.

11.2.3 Section 00425B, Contractor Affidavit of Receipt and Provision of ROCIP Information, and Subcontractor Affidavit of Receipt and Provision of ROCIP Information (for Subcontractor(s) of all tiers identified in the MBE/WBE Compliance Plan). For ROCIP projects.

11.2.4 Such other information as required. In addition, the Bidder acknowledges and agrees that the failure to timely provide the additional information required by this section will result in a determination that, for the purposes of this solicitation, the Bidder has not provided sufficient information for the OWNER to be able to determine that the Bidder is a responsible Bidder.

12. AWARD AND EXECUTION OF CONTRACT

OWNER will process Bids expeditiously. Award of Contract will be to the lowest, responsible Bidder meeting all requirements of the Bid Documents. OWNER may not award Contract to a nonresident Bidder unless the nonresident underbids the lowest Bid submitted by a responsible resident Bidder by an amount that is not less than the amount by which a

resident Bidder would be required to underbid the nonresident Bidder to obtain a comparable contract in the state in which the nonresident's principal place of business is located.

Award of Contract will occur within the period identified on the Bid form, unless mutually agreed between the parties. Capital Contracting Officer shall submit recommendation for award to the City Council for those project awards requiring City Council action. Contract will be signed by City Manager or his/her designee after award and submission of required documentation by Bidder. Contract will not be binding upon OWNER until it has been executed by both parties. OWNER will process the Contract expeditiously. However, OWNER will not be liable for any delays prior to the award or execution of Contract.

Upon contract award, the selected Bidder must submit either their existing or an updated personnel policy (on letterhead) documenting conformity with City Code, Chapter 5-4, § 5-4-2. If the company does not submit a copy of their personnel policy incorporating the non-discrimination policy, the City of Austin Nondiscrimination Policy (Section 00630) will be considered the Bidder's nondiscrimination policy.

In any case of ambiguity or lack of clarity in the Bid, OWNER reserves the right to determine the most advantageous Bid or to reject the Bid.

Notwithstanding anything in this Section 00100 to the contrary, the OWNER may award a contract for construction services in an amount of less than $100,000 to a bidder whose principal place of business is in the City of Austin and whose bid is within 5% of the lowest bid price received from a bidder whose principal place of business is not within the City of Austin, if the City finds that the local bidder offers the City the best combination of contract price and additional economic development opportunities for the City created by the contract award including the employment of resident of the City and increased tax revenues to the City.

13. PARTNERING

In order to complete the Work in a manner that is most beneficial to the OWNER and CONTRACTOR, OWNER and CONTRACTOR may form a "Partnering Team", which will include the E/A, and any major Subcontractors. This partnering relationship will draw on the strength of all parties to identify and achieve mutual goals. The objectives of this partnering relationship are effective and efficient communication and Contract performance, which is intended to ensure that the Project is completed within budget, on schedule, and in accordance with the Drawings and Specifications and other Contract requirements. While the partnering relationship will be multilateral in makeup and participation will be totally voluntary, the OWNER and CONTRACTOR agree to cooperate and use reasonable good faith efforts to discuss and resolve any and all Project issues and disputes. Section 01100, Special Project Procedures and/or Section 01200, Project Meetings contain additional information regarding the intent of the partnering relationship and responsibilities of the entities entering into the partnering charter.

14. ROCIP REQUIREMENTS

If the insurance on this Project will be under the Rolling Owner Controlled Insurance Program (ROCIP), the Bidder is directed to Section 00810, Supplemental General Conditions, Section 00820, Modifications to Bidding Requirements and Contract Forms, and the Project Safety Manual included with these contract documents for information and bidding requirements.

The Insurance Cost Form, Section 00425A must be accurately completed and submitted with the Bid to indicate insurance removed from Base Bid and Alternates. CONTRACTOR shall remove from the Bid the cost of insurance for the CONTRACTOR and Subcontractors of all tiers working on site.

The Rolling Owner Controlled Insurance Program Information, Section 00425 B, Contractor Affidavit of Receipt and Provision of ROCIP Information and Subcontractor Affidavit of Receipt and Provision of ROCIP Information for subcontractor(s) of all tiers identified in the MBE/WBE Compliance Plan must be accurately completed and submitted by the certified low bidder as a post bid submittal. Subcontractor Affidavits must be submitted throughout the duration of the Contract as Subcontractor(s) are added.

15. SIGNATURE REQUIREMENTS

The Bid and any subsequent supporting Bid documents and Contract must be executed in the Bidder's full name and legal entity status by an authorized representative of the Bidder. Accordingly, a partnership/joint venture must file its partnership/joint venture agreement, a corporation must file its articles and bylaws, a limited liability company must file its certificate of organization and article of organization and regulations, and a limited partnership must file not only limited partnership agreement and the certificate of limited partnership, but also the documentation for its general partner, and any Bidder must file a copy of any assumed name certificate, or such limited portion of such documents reasonably establishing signature authority.

16. CONTRACTOR EVALUATION

The Owner will review and evaluate the Contractor's Work and performance on the Project and provide the Contractor with a written Contractor Evaluation Report in accordance with City of Austin Administrative Rule R161-13.37. Rule R161-13.37 provides an appeal process. http://www.austintexas.gov/department/contract-management

17. TEXAS ETHICS COMMISSION CERTIFICATE OF INTERESTED PARTIES DISCLOSURE FORM

17.1 Definitions:

17.1.1 "Interested Party" – means a person who has a controlling interest in a Business Entity with whom the Owner contacts or who actively participates in facilitating the Contract or negotiating the terms of the Contract, including a broker, intermediary, adviser, or attorney for the Business Entity.

17.1.2 "Business entity" - includes an entity through which business is conducted with a governmental entity or state agency, regardless of whether the entity is a for-profit or nonprofit entity. The term does not include a governmental entity or state agency.

17.2 As a condition to entering the Contract, the Business Entity constituting the successful Bidder must provide a Texas Ethics Commission Certificate of Interested Parties Form to the Owner at the time the Business Entity/Bidder submits the signed Contract to the Owner in full compliance with the following requirements under which the successful Bidder shall:

17.2.1 Go to the Ethics Commission's website (www.ethics.state.tx.us),

17.2.2 Complete the "Interested Parties" information, in accordance with the requirements of the Texas Ethics Commission Rules published at Title 1, Part 2, Chapter 46, of the Texas Administrative Code and available on the referenced website,

17.2.3 Include the City's contract identification number,

17.2.4 Include a short description of the goods or services to be used by the City, and

17.2.5 Indicate whether each interested party has a controlling interest in the business entity, is an intermediary in the contract for which the disclosure is being filed, or both.

17.3 In accordance with the Commission Rules, the Certificate of Filing and completed Certificate of Interested Parties must be (i) printed, (ii) signed by an authorized agent of the business entity, and (iii) submitted to the City at the time of the submission of the signed contract to the City. The City then must notify the Ethics Commission in electronic format of receipt of the document within 30 days of contracting and the Commission will make the disclosure of interested parties available to the public on its website.

END

GEOTECHNICAL DATA
Section 00220

1. OVERVIEW

Depending on Project requirements, OWNER may have obtained geotechnical information, which may include laboratory test results and logs of borings from geotechnical consultants. That information will be included in this section and/or on the Drawings. The CONTRACTOR shall be familiar with the subsurface materials and conditions on the Project and shall be knowledgeable of how they will affect the Work. The following is a partial listing of sources of information available to the CONTRACTOR about subsurface materials and conditions: the geotechnical information provided by the OWNER; geologic maps, publications and reports available from the University of Texas Bureau of Economic Geology at the J.J. Pickle Research Center in Austin, Texas; subcontractors familiar with local ground conditions; and, local consulting geologists and geotechnical engineers. The CONTRACTOR may make their own subsurface investigations.

END

UNIT PRICE BID FORM
Section 00300U-IDIQ

The undersigned, in compliance with the Invitation for Bids for construction of the following Project: **2021 Waterline On-Call Services Indefinite Delivery / Indefinite Quantity**

(CIP ID# **2231.390**) (IFB# **6100 CLMC 813**) for the City of Austin, Texas, having examined the Project Manual, Drawings and Addenda, the site of the proposed Work and being familiar with all of the conditions surrounding construction of the proposed Project, having conducted all inquiries, tests and investigations deemed necessary and proper; hereby proposes to furnish all labor, permits, material, machinery, tools, supplies and equipment, and incidentals, and to perform all Work required for construction of the Project in accordance with the Project Manual, Drawings and Addenda within the time indicated.

Note: The Bidder will enter the line item subtotal in the "Amount" column below, which is the product of the estimated "Quantity" multiplied by the "Unit Price". Any mathematical errors will be corrected for the purpose of determining the correct Amount to be entered in the Bid Form. The Amounts, including any corrected Amounts, will then be totaled to determine the actual amount of the Bid.

Note: Quantity estimates listed below for each Bid Item are based on the full term of the contract.

Bid Item	Quantity	Unit	Item Description	Unit Price	Amount
104S-A	500	LF	Remove P.C. Concrete Curb	$_____	$_____
104S-B	500	SF	Remove P.C. Concrete Slab	$_____	$_____
104S-C	2000	SF	Remove P.C. Concrete Sidewalks and Driveways	$_____	$_____
210S-A	50	CY	Flexible Base	$_____	$_____
315S-A	5000	SY	Surface Milling	$_____	$_____
315S-C	100	SY	Transition Milling	$_____	$_____
315S-D	100	SY	Edge Milling	$_____	$_____
340S-A-A	10	TON	Hot Mix Asphaltic Concrete Pavement, Type A	$_____	$_____

340S-A-B	10	TON	Hot Mix Asphaltic Concrete Pavement, Type B	$_____	$_____
340S-B-C-2	100	SY	Hot Mix Asphaltic Concrete Pavement, 2-in, Type C	$_____	$_____
340S-B-C-3	100	SY	Hot Mix Asphaltic Concrete Pavement, 3-in, Type C	$_____	$_____
340S-B-D-2	500	SY	Hot Mix Asphaltic Concrete Pavement, 2-in, Type D	$_____	$_____
340S-B-D-3	500	SY	Hot Mix Asphaltic Concrete Pavement, 3-in, Type D	$_____	$_____
360S-A	50	SY	12-in Concrete Pavement	$_____	$_____
360S-AH	50	SY	12-in Concrete Pavement (High Early Strength)	$_____	$_____
403S-CY-A	50	CY	Class A Concrete for Reinforced/ Non-Reinforced Street Repairs (per Detail 1100S-3)	$_____	$_____
403S-CY-J	50	CY	Class J Concrete for Utility Trench Repair, Complete in Place	$_____	$_____
430S-A	500	LF	P.C. Concrete Curb and Gutter (Excavation)	$_____	$_____
430S-C	100	LF	P.C. Concrete Curb (Excavation)	$_____	$_____
432S-4	1000	SF	New P.C. Concrete Sidewalks, 4 Inch thickness	$_____	$_____
432S-6	200	SF	New P.C. Concrete Sidewalks, 6 Inch thickness	$_____	$_____

432SR-4	500	SF	Reconstruct Concrete Sidewalks to 4 Inch thickness, including removal of existing sidewalk	$_____	$_____
432SR-6	200	SF	Reconstruct Concrete Sidewalks to 6 Inch thickness, including removal of existing sidewalk	$_____	$_____
432S-RP-1	2	EA	P.C. Sidewalk Curb Ramp with Pavers (Type I)	$_____	$_____
432S-RP-1A	2	EA	P.C. Sidewalk Curb Ramp with Pavers (Type IA)	$_____	$_____
432S-RP-1B	2	EA	P.C. Sidewalk Curb Ramp with Pavers (Type IB)	$_____	$_____
433S-A	1000	SF	Type I P.C. Concrete Driveway	$_____	$_____
433S-B	250	SF	Flared Type I P.C. Concrete Driveway	$_____	$_____
433S-C	250	SF	Type II P.C. Concrete Driveway	$_____	$_____
504S-1WM	20	EA	Adjusting Water Meters	$_____	$_____
504S-1RM	10	EA	Repositioning & Adjusting Water Meters	$_____	$_____
504S-3W	20	EA	Adjusting Water Valve Boxes to Grade	$_____	$_____
506M1-WA1	10	EA	Standard Precast Manhole w/CIP Base Installed over Waterline Access Manway, 48 Inch Dia., 0 feet to 8 feet in depth, complete and in place	$_____	$_____

506M1-WA2	3	EA	Standard Precast Manhole w/CIP Base Installed over Waterline Access Manway, 60 Inch Dia., 0 feet to 8 feet in depth, complete and in place	$_____	$_____
506M1-WA3	3	EA	Standard Precast Manhole w/CIP Base Installed over Waterline Access Manway, 72 Inch Dia., 0 feet to 8 feet in depth, complete and in place	$_____	$_____
506EDM-WA1	10	VF	Extra Depth of Manhole, 48 Inch Dia., complete and in place	$_____	$_____
506EDM-WA2	10	VF	Extra Depth of Manhole, 60 Inch Dia., complete and in place	$_____	$_____
506EDM-WA3	10	VF	Extra Depth of Manhole, 72 Inch Dia., complete and in place	$_____	$_____
509S-1	1,000	LF	Trench Excavation Safety Protective Systems, (all depths)	$_____	$_____
510-AW2-HDPE	200	LF	Pipe, 2-in Dia. HDPE (Service Pipe), All Depths	$_____	$_____
510-AW4-PVC	100	LF	Pipe, 4-in Dia. PVC, All Depths	$_____	$_____
510-AW6-PVC	100	LF	Pipe, 6-in Dia. PVC, All Depths	$_____	$_____
510-AW8-PVC	100	LF	Pipe, 8-in Dia. PVC, All Depths	$_____	$_____
510-AW12-PVC	100	LF	Pipe, 12-in Dia. PVC, All Depths	$_____	$_____

510-AW16-DI	100	LF	Pipe, 16-in Dia. Ductile Iron, All Depths	$_____	$_____
510-AW20-DI	50	LF	Pipe, 20-in Dia. Ductile Iron, All Depths	$_____	$_____
510-AW24-DI	50	LF	Pipe, 24-in Dia. Ductile Iron, All Depths	$_____	$_____
510-IW2x6	1	EA	Pressure Taps, 2-in Dia x 6-in Dia	$_____	$_____
510-IW2x8	1	EA	Pressure Taps, 2-in Dia x 8-in Dia	$_____	$_____
510-IW2x12	1	EA	Pressure Taps, 2-in Dia x 12-in Dia	$_____	$_____
510-IW2x16	1	EA	Pressure Taps, 2-in Dia x 16-in Dia	$_____	$_____
510-IW2x20	1	EA	Pressure Taps, 2-in Dia x 20-in Dia	$_____	$_____
510-IW2x24	1	EA	Pressure Taps, 2-in Dia x 24-in Dia	$_____	$_____
510-IW2x36	1	EA	Pressure Taps, 2-in Dia x 36-in Dia	$_____	$_____
510-IW2x24-CSC	1	EA	Pressure Taps, 2-in Dia x 24-in Dia, CSC Pipe	$_____	$_____
510-IW2x30-CSC	1	EA	Pressure Taps, 2-in Dia x 30-in Dia, CSC Pipe	$_____	$_____

510-IW2x36-CSC	1	EA	Pressure Taps, 2-in Dia x 36-in Dia, CSC Pipe	$_____	$_____
510-IW2x48-CSC	1	EA	Pressure Taps, 2-in Dia x 48-in Dia, CSC Pipe	$_____	$_____
510-IW2x60-CSC	1	EA	Pressure Taps, 2-in Dia x 60-in Dia, CSC Pipe	$_____	$_____
510-IW6x8	1	EA	Pressure Taps, 6-in Dia x 8-in Dia	$_____	$_____
510-IW6x12	1	EA	Pressure Taps, 6-in Dia x 12-in Dia	$_____	$_____
510-IW6x16	1	EA	Pressure Taps, 6-in Dia x 16-in Dia	$_____	$_____
510-IW6x24	1	EA	Pressure Taps, 6-in Dia x 24-in Dia	$_____	$_____
510-IW6x36	1	EA	Pressure Taps, 6-in Dia x 36-in Dia	$_____	$_____
510-IW6x24-CSC	1	EA	Pressure Taps, 6-in Dia x 24-in Dia, CSC Pipe	$_____	$_____
510-IW6x30-CSC	1	EA	Pressure Taps, 6-in Dia x 30-in Dia, CSC Pipe	$_____	$_____
510-IW6x36-CSC	1	EA	Pressure Taps, 6-in Dia x 36-in Dia, CSC Pipe	$_____	$_____
510-IW6x48-CSC	1	EA	Pressure Taps, 6-in Dia x 48-in Dia, CSC Pipe	$_____	$_____

510-IW6x60-CSC	1	EA	Pressure Taps, 6-in Dia x 60-in Dia, CSC Pipe	$_____	$_____
510-JW6x6	1	EA	Wet Connections, 6-in Dia x 6-in Dia, DI or PVC Type Pipe	$_____	$_____
510-JW8x8	1	EA	Wet Connections, 8-in Dia x 8-in Dia, DI or PVC Type Pipe	$_____	$_____
510-JW12x12	1	EA	Wet Connections, 12-in Dia x 12-in Dia, DI or PVC Type Pipe	$_____	$_____
510-JW16x16	1	EA	Wet Connections, 16-in Dia x 16-in Dia, DI or PVC Type Pipe	$_____	$_____
510-JW20x20	1	EA	Wet Connections, 20-in Dia x 20-in Dia, DI Type Pipe	$_____	$_____
510-JW24x24	1	EA	Wet Connections, 24-in Dia x 24-in Dia, DI Type Pipe	$_____	$_____
510-JW30x30	1	EA	Wet Connections, 30-in Dia x 30-in Dia, DI Type Pipe	$_____	$_____
510-JW36x36	1	EA	Wet Connections, 36-in Dia x 36-in Dia, DI Type Pipe	$_____	$_____
510-JW42x42	1	EA	Wet Connections, 42-in Dia x 42-in Dia, DI Type Pipe	$_____	$_____
510-JW48x48	1	EA	Wet Connections, 48-in Dia x 48-in Dia, DI Type Pipe	$_____	$_____
510-JW54x54	1	EA	Wet Connections, 54-in Dia x 54-in Dia, DI Type Pipe	$_____	$_____

510-JW8x6	1	EA	Wet Connections, 8-in Dia x 6-in Dia, Cut-in Tee on DI or PVC Type Pipe	$_____	$_____
510-JW12x6	1	EA	Wet Connections, 12-in Dia x 6-in Dia, Cut-in Tee on DI or PVC Type Pipe	$_____	$_____
510-JW16x6	1	EA	Wet Connections, 16-in Dia x 6-in Dia, Cut-in Tee on DI or PVC Type Pipe	$_____	$_____
510-JW20x6	1	EA	Wet Connections, 20-in Dia x 6-in Dia, Cut-in Tee on DI or PVC Type Pipe	$_____	$_____
510-JW24x6	1	EA	Wet Connections, 24-in Dia x 6-in Dia, Cut-in Tee on DI or PVC Type Pipe	$_____	$_____
510-KW	3	TON	Ductile Iron Fittings	$_____	$_____
511S-B	3	EA	Fire Hydrants (See Standard No. 511S-17), not including removal of existing fire hydrant	$_____	$_____
511S-F-1	2	EA	Automatic Combination Air/Vacuum Release Valve Assembly, 1-in Dia	$_____	$_____
511S-F-2	3	EA	Automatic Combination Air/Vacuum Release Valve Assembly, 2-in Dia	$_____	$_____
511S-G	10	VF	Additional Bury Depth	$_____	$_____
511S-H	10	VF	Fire Hydrant Barrel Extensions	$_____	$_____

602S-D	100	SY	Grass Sodding – Match Existing Type	$_____	$_____
604S-A1	100	SY	Non-Native Seeding for Erosion Control Method, Recycled Mulch	$_____	$_____
604S-A2	500	SY	Non-Native Seeding for Erosion Control Method, Hand Broadcasted	$_____	$_____
604S-C1	100	SY	Native Seeding for Erosions Control Method, Recycled Mulch	$_____	$_____
604S-C2	500	SY	Native Seeding for Erosions Control Method, Hand Broadcasted	$_____	$_____
605S-A1	500	SY	Soil Retention Blanket, Class 1; Type B	$_____	$_____
605S-A2	500	SY	Soil Retention Blanket, Class 1; Type D	$_____	$_____
610S-A	1000	LF	Protective Fencing Type A Chain Link Fence (Typical Application-high damage potential)	$_____	$_____
610S-C	100	LF	Protective Fencing Type C Other Materials (Limited Application-minimal damage potential)	$_____	$_____
610S-E	10	EA	Tree Trunk Protection, Wood Planking	$_____	$_____
620S	100	SY	Filter Fabric	$_____	$_____

628S-B	50	LF	Sediment Containment Dikes with Filter Fabric	$_____	$_____
628S-D	50	EA	Filter Curb Inlet Protection (Existing Inlet)	$_____	$_____
641S	3	EA	Stabilized Construction Entrance, Installed and Removed	$_____	$_____
642S	500	LF	Silt Fence for Erosion Control	$_____	$_____
703	500	LF	Safety Fencing	$_____	$_____
803S-CD	120	CD	Barricades, Signs, and Traffic Handling	$_____	$_____
803S-SF	500	LF	Safety Fence	$_____	$_____
SP402S-A-F	500	CY	Controlled Low Strength Material, Fast Setting, to be used as backfill in lieu of excavated trench material, including Disposal of Excavated Material, Complete in Place	$_____	$_____
SP402S-A-N	100	CY	Controlled Low Strength Material, Normal Setting, to be used as backfill in lieu of excavated trench material, including Disposal of Excavated Material, Complete in Place	$_____	$_____
SP505S-A	10	CY	Concrete Encasement (Class D), All Pipe Sizes, All Depths, Complete in Place	$_____	$_____

SP510-FL	50	LF	Install Fire Hydrant Lead, all depths (in accordance with Detail 511S-17), including removal of existing fire hydrant lead	$_____	$_____
SP510-JWS16x16	1	EA	Wet Connections, 16-in Dia x 16-in Dia, New Steel Pipe Connected to Existing Steel Pipe	$_____	$_____
SP510-JWS20x20	1	EA	Wet Connections, 20-in Dia x 20-in Dia, New Steel Pipe Connected to Existing Steel Pipe	$_____	$_____
SP510-JWS24x24	1	EA	Wet Connections, 24-in Dia x 24-in Dia, New Steel Pipe Connected to Existing Steel Pipe	$_____	$_____
SP510-JWS30x30	1	EA	Wet Connections, 30-in Dia x 30-in Dia, New Steel Pipe Connected to Existing Steel Pipe	$_____	$_____
SP510-JWS36x36	1	EA	Wet Connections, 36-in Dia x 36-in Dia, New Steel Pipe Connected to Existing Steel Pipe	$_____	$_____
SP510-JWS42x42	1	EA	Wet Connections, 42-in Dia x 42-in Dia, New Steel Pipe Connected to Existing Steel Pipe	$_____	$_____
SP510-JWS48x48	1	EA	Wet Connections, 48-in Dia x 48-in Dia, New Steel Pipe Connected to Existing Steel Pipe	$_____	$_____
SP510-JWS54x54	1	EA	Wet Connections, 54-in Dia x 54-in Dia, New Steel Pipe Connected to Existing Steel Pipe	$_____	$_____
SP510-JWS60x60	1	EA	Wet Connections, 60-in Dia x 60-in Dia, New Steel Pipe Connected to Existing Steel Pipe	$_____	$_____

SP510-JWS66x66	1	EA	Wet Connections, 66-in Dia x 66-in Dia, New Steel Pipe Connected to Existing Steel Pipe	$_____	$_____
SP510-JWD16x16	1	EA	Wet Connections, 16-in Dia x 16-in Dia, New DI Pipe Connected to Existing Steel Pipe	$_____	$_____
SP510-JWD20x20	1	EA	Wet Connections, 20-in Dia x 20-in Dia, New DI Pipe Connected to Existing Steel Pipe	$_____	$_____
SP510-JWD24x24	1	EA	Wet Connections, 24-in Dia x 24-in Dia, New DI Pipe Connected to Existing Steel Pipe	$_____	$_____
SP510-JWD30x30	1	EA	Wet Connections, 30-in Dia x 30-in Dia, New DI Pipe Connected to Existing Steel Pipe	$_____	$_____
SP510-JWD36x36	1	EA	Wet Connections, 36-in Dia x 36-in Dia, New DI Pipe Connected to Existing Steel Pipe	$_____	$_____
SP510-JWD42x42	1	EA	Wet Connections, 42-in Dia x 42-in Dia, New DI Pipe Connected to Existing Steel Pipe	$_____	$_____
SP510-JWD48x48	1	EA	Wet Connections, 48-in Dia x 48-in Dia, New DI Pipe Connected to Existing Steel Pipe	$_____	$_____
SP510-JWD54x54	1	EA	Wet Connections, 54-in Dia x 54-in Dia, New DI Pipe Connected to Existing Steel Pipe	$_____	$_____
SP510-JWD60x60	1	EA	Wet Connections, 60-in Dia x 60-in Dia, New DI Pipe Connected to Existing Steel Pipe	$_____	$_____

SP510-JWD66x66	1	EA	Wet Connections, 66-in Dia x 66-in Dia, New DI Pipe Connected to Existing Steel Pipe	$_____	$_____
SP510-PP	15	EA	Pipe Patch, CSC or Steel Type Pipe	$_____	$_____
SP510-PR1-6	20	LF	Pipe Replacement, not including Wet Connections, 6-in Dia, Zero to 20 LF of DI Pipe	$_____	$_____
SP510-PR1-8	20	LF	Pipe Replacement, not including Wet Connections, 8-in Dia, Zero to 20 LF of DI Pipe	$_____	$_____
SP510-PR1-12	20	LF	Pipe Replacement, not including Wet Connections, 12-in Dia, Zero to 20 LF of DI Pipe	$_____	$_____
SP510-PR1-16	20	LF	Pipe Replacement, not including Wet Connections, 16-in Dia, Zero to 20 LF of DI Pipe	$_____	$_____
SP510-PR1-20	20	LF	Pipe Replacement, not including Wet Connections, 20-in Dia, Zero to 20 LF of DI Pipe	$_____	$_____
SP510-PR1-24	20	LF	Pipe Replacement, not including Wet Connections, 24-in Dia, Zero to 20 LF of DI Pipe	$_____	$_____
SP510-PR1-30	20	LF	Pipe Replacement, not including Wet Connections, 30-in Dia, Zero to 20 LF of DI Pipe	$_____	$_____
SP510-PR1-36	20	LF	Pipe Replacement, not including Wet Connections, 36-in Dia, Zero to 20 LF of DI Pipe	$_____	$_____

SP510-PR1-42	20	LF	Pipe Replacement, not including Wet Connections, 42-in Dia, Zero to 20 LF of DI Pipe	$_____	$_____
SP510-PR1-48	20	LF	Pipe Replacement, not including Wet Connections, 48-in Dia, Zero to 20 LF of DI Pipe	$_____	$_____
SP510-PR1-54	20	LF	Pipe Replacement, not including Wet Connections, 54-in Dia, Zero to 20 LF of DI Pipe	$_____	$_____
SP510-PR1-60	20	LF	Pipe Replacement, not including Wet Connections, 60-in Dia, Zero to 20 LF of DI Pipe	$_____	$_____
SP510-PR1-66	20	LF	Pipe Replacement, not including Wet Connections, 66-in Dia, Zero to 20 LF of DI Pipe	$_____	$_____
SP510-PR2-6	100	LF	Pipe Replacement, not including Wet Connections, 6-in Dia, Over 20 LF of DI Pipe	$_____	$_____
SP510-PR2-8	100	LF	Pipe Replacement, not including Wet Connections, 8-in Dia, Over 20 LF of DI Pipe	$_____	$_____
SP510-PR2-12	100	LF	Pipe Replacement, not including Wet Connections, 12-in Dia, Over 20 LF of DI Pipe	$_____	$_____
SP510-PR2-16	100	LF	Pipe Replacement, not including Wet Connections, 16-in Dia, Over 20 LF of DI Pipe	$_____	$_____
SP510-PR2-20	100	LF	Pipe Replacement, not including Wet Connections, 20-in Dia, Over 20 LF of DI Pipe	$_____	$_____

SP510-PR2-24	100	LF	Pipe Replacement, not including Wet Connections, 24-in Dia, Over 20 LF of DI Pipe	$_____	$_____
SP510-PR3-16	32	LF	Pipe Replacement, not including Wet Connections, 16-in Dia, CSC or Welded Steel Pipe	$_____	$_____
SP510-PR3-24	32	LF	Pipe Replacement, not including Wet Connections, 24-in Dia, CSC or Welded Steel Pipe	$_____	$_____
SP510-PR3-30	32	LF	Pipe Replacement, not including Wet Connections, 30-in Dia, CSC or Welded Steel Pipe	$_____	$_____
SP510-PR3-36	32	LF	Pipe Replacement, not including Wet Connections, 36-in Dia, CSC or Welded Steel Pipe	$_____	$_____
SP510-PR3-42	32	LF	Pipe Replacement, not including Wet Connections, 42-in Dia, CSC or Welded Steel Pipe	$_____	$_____
SP510-PR3-48	32	LF	Pipe Replacement, not including Wet Connections, 48-in Dia, CSC or Welded Steel Pipe	$_____	$_____
SP510-PR3-54	32	LF	Pipe Replacement, not including Wet Connections, 54-in Dia, CSC or Welded Steel Pipe	$_____	$_____
SP510-PR3-60	32	LF	Pipe Replacement, not including Wet Connections, 60-in Dia, CSC or Welded Steel Pipe	$_____	$_____
SP510-PR3-66	32	LF	Pipe Replacement, not including Wet Connections, 66-in Dia, CSC or Welded Steel Pipe	$_____	$_____

SP510-MWI-S-36	1	EA	20-in Steel Manway, Install 20-in x 36-in Dia Fabricated Steel Tee	$_____	$_____
SP510-MWI-S-42	1	EA	20-in Steel Manway, Install 20-in x 42-in Dia Fabricated Steel Tee	$_____	$_____
SP510-MWI-S-48	1	EA	20-in Steel Manway, Install 20-in x 48-in Dia Fabricated Steel Tee	$_____	$_____
SP510-MWI-S-54	1	EA	20-in Steel Manway, Install 20-in x 54-in Dia Fabricated Steel Tee	$_____	$_____
SP510-MWI-S-60	1	EA	20-in Steel Manway, Install 20-in x 60-in Dia Fabricated Steel Tee	$_____	$_____
SP510-MWI-S-66	1	EA	20-in Steel Manway, Install 20-in x 66-in Dia Fabricated Steel Tee	$_____	$_____
SP510-MWI-DI-36	1	EA	20-in DI Manway, Install 20-in x 36-in Dia DI Tee	$_____	$_____
SP510-MWI-DI-42	1	EA	20-in DI Manway, Install 20-in x 42-in Dia DI Tee	$_____	$_____
SP510-MWI-DI-48	1	EA	20-in DI Manway, Install 20-in x 48-in Dia DI Tee	$_____	$_____
SP510-MWI-DI-54	1	EA	20-in DI Manway, Install 20-in x 54-in Dia DI Tee	$_____	$_____
SP510-MWI-T1-36	1	EA	20-in Tapped Manway on DI Pipe, Full Body Tapping Sleeve (No Tapping Valve), 36-in Dia Parent Pipe	$_____	$_____

SP510-MWI-T1-42	1	EA	20-in Tapped Manway on DI Pipe, Full Body Tapping Sleeve (No Tapping Valve), 42-in Dia Parent Pipe	$_____	$_____
SP510-MWI-T1-48	1	EA	20-in Tapped Manway on DI Pipe, Full Body Tapping Sleeve (No Tapping Valve), 48-in Dia Parent Pipe	$_____	$_____
SP510-MWI-T2-36	1	EA	20-in Tapped Manway on CSC Bar-Wrapped Pipe, Full Body Tapping Sleeve (No Tapping Valve), 36-in Dia Parent Pipe	$_____	$_____
SP510-MWI-T2-42	1	EA	20-in Tapped Manway on CSC Bar-Wrapped Pipe, Full Body Tapping Sleeve (No Tapping Valve), 42-in Dia Parent Pipe	$_____	$_____
SP510-MWI-T2-48	1	EA	20-in Tapped Manway on CSC Bar-Wrapped Pipe, Full Body Tapping Sleeve (No Tapping Valve), 48-in Dia Parent Pipe	$_____	$_____
SP510-MWI-T2-54	1	EA	20-in Tapped Manway on CSC Bar-Wrapped Pipe, Full Body Tapping Sleeve (No Tapping Valve), 54-in Dia Parent Pipe	$_____	$_____
SP510-MWI-T2-60	1	EA	20-in Tapped Manway on CSC Bar-Wrapped Pipe, Full Body Tapping Sleeve (No Tapping Valve), 60-in Dia Parent Pipe	$_____	$_____
SP510-MWI-T2-66	1	EA	20-in Tapped Manway on CSC Bar-Wrapped Pipe, Full Body Tapping Sleeve (No Tapping Valve), 66-in Dia Parent Pipe	$_____	$_____

SP510-MWI-T3-36	1	EA	20-in Tapped Manway on CSC Pre-Stressed Pipe, Full Body Tapping Sleeve (No Tapping Valve), 36-in Dia Parent Pipe	$_____	$_____
SP510-MWI-T3-42	1	EA	20-in Tapped Manway on CSC Pre-Stressed Pipe, Full Body Tapping Sleeve (No Tapping Valve), 42-in Dia Parent Pipe	$_____	$_____
SP510-MWI-T3-48	1	EA	20-in Tapped Manway on CSC Pre-Stressed Pipe, Full Body Tapping Sleeve (No Tapping Valve), 48-in Dia Parent Pipe	$_____	$_____
SP510-MWI-T3-54	1	EA	20-in Tapped Manway on CSC Pre-Stressed Pipe, Full Body Tapping Sleeve (No Tapping Valve), 54-in Dia Parent Pipe	$_____	$_____
SP510-MWI-T3-60	1	EA	20-in Tapped Manway on CSC Pre-Stressed Pipe, Full Body Tapping Sleeve (No Tapping Valve), 60-in Dia Parent Pipe	$_____	$_____
SP510-MWI-T3-66	1	EA	20-in Tapped Manway on CSC Pre-Stressed Pipe, Full Body Tapping Sleeve (No Tapping Valve), 66-in Dia Parent Pipe	$_____	$_____
SP510-MWI-T4-54	1	EA	20-in Tapped Manway on Welded Steel Pipe, Weld On Outlet (No Tapping Valve), 54-in Dia Parent Pipe	$_____	$_____
SP510-MWI-T4-60	1	EA	20-in Tapped Manway on Welded Steel Pipe, Weld On Outlet (No Tapping Valve), 60-in Dia Parent Pipe	$_____	$_____

SP510-MWI-T4-66	1	EA	20-in Tapped Manway on Welded Steel Pipe, Weld On Outlet (No Tapping Valve), 66-in Dia Parent Pipe	$_____	$_____
SP510-W	25	LF	Welding over Four (4) Linear Feet	$_____	$_____
SP510-WS-S-6	3	EA	Water Service Replacement, Single Service, 2-in Service x 6-in Water Main	$_____	$_____
SP510-WS-S-8	3	EA	Water Service Replacement, Single Service, 2-in Service x 8-in Water Main	$_____	$_____
SP510-WS-S-12	3	EA	Water Service Replacement, Single Service, 2-in Service x 12-in Water Main	$_____	$_____
SP510-WS-S-16	3	EA	Water Service Replacement, Single Service, 2-in Service x 16-in Water Main	$_____	$_____
SP510-WS-S-20	3	EA	Water Service Replacement, Single Service, 2-in Service x 20-in Water Main	$_____	$_____
SP510-WS-D-6	3	EA	Water Service Replacement, Double Service, 2-in Service x 6-in Water Main	$_____	$_____
SP510-WS-D-8	3	EA	Water Service Replacement, Double Service, 2-in Service x 8-in Water Main	$_____	$_____
SP510-WS-D-12	3	EA	Water Service Replacement, Double Service, 2-in Service x 12-in Water Main	$_____	$_____

SP510-WS-D-16	3	EA	Water Service Replacement, Double Service, 2-in Service x 16-in Water Main	$_____	$_____
SP510-WS-D-20	3	EA	Water Service Replacement, Double Service, 2-in Service x 20-in Water Main	$_____	$_____
SP510-WS-SM	15	EA	Install New Single Meter Box	$_____	$_____
SP510-WS-DM	15	EA	Install New Double Meter Box	$_____	$_____
SP510-JH1	1,000	LF	1-inch Jumper Hose	$_____	$_____
SP510-JH2	1,000	LF	2-inch Jumper Hose	$_____	$_____
SP511S-BR	3	EA	Fire Hydrant Removal, including removal and disposal of fire hydrant, lead pipe, and lead valve	$_____	$_____
SP511S-F1-1	5	EA	Automatic Combination Air/Vacuum Release Valve Removal, 1-inch Dia	$_____	$_____
SP511S-F1-2	5	EA	Automatic Combination Air/Vacuum Release Valve Removal, 2-inch Dia	$_____	$_____
SP511S-F2-1	10	EA	Automatic Combination Air/Vacuum Release Valve Only, 1-inch Dia	$_____	$_____

SP511S-J1-4	1	EA	Permanent Insertable Valve, 4-in Dia., EZ-Valve (or Equal), Complete in Place	$_____	$_____
SP511S-J1-6	1	EA	Permanent Insertable Valve, 6-in Dia., EZ-Valve (or Equal), Complete in Place	$_____	$_____
SP511S-J1-8	1	EA	Permanent Insertable Valve, 8-in Dia., EZ-Valve (or Equal), Complete in Place	$_____	$_____
SP511S-J1-12	1	EA	Permanent Insertable Valve, 12-in Dia., EZ-Valve (or Equal), Complete in Place	$_____	$_____
SP511S-J1-16	1	EA	Permanent Insertable Valve, 16-in Dia., EZ-Valve (or Equal), Complete in Place	$_____	$_____
SP511S-J2-4	1	EA	Permanent Insertable Valve, 4-in Dia., Team Industrial Valve (or Equal), Complete in Place	$_____	$_____
SP511S-J2-6	1	EA	Permanent Insertable Valve, 6-in Dia., Team Industrial Valve (or Equal), Complete in Place	$_____	$_____
SP511S-J2-8	1	EA	Permanent Insertable Valve, 8-in Dia., Team Industrial Valve (or Equal), Complete in Place	$_____	$_____
SP511S-J2-12	1	EA	Permanent Insertable Valve, 12-in Dia., Team Industrial Valve (or Equal), Complete in Place	$_____	$_____
SP511S-J2-16	1	EA	Permanent Insertable Valve, 16-in Dia., Team Industrial Valve (or Equal), Complete in Place	$_____	$_____

SP511S-K	10	DAY	Field Inspection and Measurement	$_____	$_____
SP511S-L-4	3	EA	Valve Removal, 4-in Dia	$_____	$_____
SP511S-L-6	3	EA	Valve Removal, 6-in Dia	$_____	$_____
SP511S-L-8	3	EA	Valve Removal, 8-in Dia	$_____	$_____
SP511S-L-12	3	EA	Valve Removal, 12-in Dia	$_____	$_____
SP511S-L-16	3	EA	Valve Removal, 16-in Dia	$_____	$_____
SP511S-L-20	3	EA	Valve Removal, 20-in Dia	$_____	$_____
SP511S-L-24	3	EA	Valve Removal, 24-in Dia	$_____	$_____
SP511S-L-30	3	EA	Valve Removal, 30-in Dia	$_____	$_____
SP511S-L-36	3	EA	Valve Removal, 36-in Dia	$_____	$_____
SP511S-L-42	3	EA	Valve Removal, 42-in Dia	$_____	$_____
SP511S-L-48	3	EA	Valve Removal, 48-in Dia	$_____	$_____
SP511S-L-54	3	EA	Valve Removal, 54-in Dia	$_____	$_____

SP511S-L-60	3	EA	Valve Removal, 60-in Dia	$_____	$_____
SP511S-L-66	3	EA	Valve Removal, 66-in Dia	$_____	$_____
SP511S-M-4	5	EA	Valve Installation, not including Wet Connections, 4-in Dia	$_____	$_____
SP511S-M-6	5	EA	Valve Installation, not including Wet Connections, 6-in Dia	$_____	$_____
SP511S-M-8	5	EA	Valve Installation, not including Wet Connections, 8-in Dia	$_____	$_____
SP511S-M-12	5	EA	Valve Installation, not including Wet Connections, 12-in Dia	$_____	$_____
SP511S-M-16	5	EA	Valve Installation, not including Wet Connections, 16-in Dia	$_____	$_____
SP511S-M-20	5	EA	Valve Installation, not including Wet Connections, 20-in Dia	$_____	$_____
SP511S-M-24	5	EA	Valve Installation, not including Wet Connections, 24-in Dia	$_____	$_____
SP511S-M-30	2	EA	Valve Installation, not including Wet Connections, 30-in Dia	$_____	$_____
SP511S-M-36	2	EA	Valve Installation, not including Wet Connections, 36-in Dia	$_____	$_____
SP511S-M-42	2	EA	Valve Installation, not including Wet Connections, 42-in Dia	$_____	$_____

SP511S-M-48	2	EA	Valve Installation, not including Wet Connections, 48-in Dia	$_____	$_____
SP511S-M-54	1	EA	Valve Installation, not including Wet Connections, 54-in Dia	$_____	$_____
SP511S-M-60	1	EA	Valve Installation, not including Wet Connections, 60-in Dia	$_____	$_____
SP511S-M-66	1	EA	Valve Installation, not including Wet Connections, 66-in Dia	$_____	$_____
SP511S-N	10	EA	Valve Abandonment	$_____	$_____
SP803S-A1L	5	DAY	Arterial One-Lane Closure (804S-1, 1 of 9)	$_____	$_____
SP803S-A2L	5	DAY	One Way Arterial Two-Lane Closure (804S-1, 2 of 9)	$_____	$_____
SP803S-DA1L	5	DAY	Two Way, Divided Arterial One Lane Closure (804S-1, 3 of 9)	$_____	$_____
SP803S-WC	5	DAY	Bypass Walkway, Sidewalk and Crosswalk Closures (804S-1, 4 of 9)	$_____	$_____
SP803S-CR	5	DAY	Collector/ Residential Lane Closure (804S-1, 5 of 9)	$_____	$_____
SP803S-TT1	5	DAY	Typical Traffic Control Plan for Shifting Traffic (804S-1, 6 of 9)	$_____	$_____
SP803S-TT2	5	DAY	Typical Traffic Control Plan for Shifting Traffic (804S-1, 7 of 9)	$_____	$_____

SP803S-BLC	5	DAY	Bike Lane Closure & Bike Lane Closure W/Adjacent Travel Lane; 35 mph or Less (804S-1, 10 of 13)	$_____	$_____
SP803S-BLA	5	DAY	Bike Lane Channelizing; 40 mph or Above (804S-1, 11 of 13)	$_____	$_____
SP803S-EBL	5	DAY	Traffic Encroachment into Bike Lane; 35 mph or Less (804S-1, 12 of 13)	$_____	$_____
SP803S-SLC	5	DAY	Single Lane Closure on a Three Lane Roadway w/Bike Lanes (804S-1, 13 of 13)	$_____	$_____
SP803S-FL	10	DAY	Collector/Residential Street Flagger Operations (804S-2, 1 of 8)	$_____	$_____
SP803S-FL2	10	DAY	Flagger Setup for 2 Lane Roadway (804S-2, 2 of 8)	$_____	$_____
SP803S-DS	10	DAY	Street Detour Single Direction (804S-2, 5 of 8)	$_____	$_____
SP803S-DB	10	DAY	Street Detour Both Direction (804S-2, 6 of 8)	$_____	$_____
SP803S-MB	10	DAY	Single Message Board	$_____	$_____
SS520-1	10	DAY	Topside Site Safety and Emergency Rescue Support	$_____	$_____

SS520-2	2	EA	Site Safety Plan	$_____	$_____
SS520-3	40	HOUR	Dewatering by Manned Entry	$_____	$_____
SS520-4	40	HOUR	Pipe Cleaning by Manned Entry	$_____	$_____
SS597SA-8	100	LF	Water Main Replacement by Pipe Bursting, 8-inch Dia	$_____	$_____
SS597SA-12	100	LF	Water Main Replacement by Pipe Bursting, 12-inch Dia	$_____	$_____
SS597SA-16	100	LF	Water Main Replacement by Pipe Bursting, 16-inch Dia	$_____	$_____
SS597SB-8	5	EA	Replace/Connect Water Service to HDPE Pipe, Single Service, 2-inch Service x 8-inch Water Main	$_____	$_____
SS597SB-12	5	EA	Replace/Connect Water Service to HDPE Pipe, Single Service, 2-inch Service x 12-inch Water Main	$_____	$_____
SS597SB-16	5	EA	Replace/Connect Water Service to HDPE Pipe, Single Service, 2-inch Service x 16-inch Water Main	$_____	$_____
SS597SC-8	5	EA	Replace/Connect Water Service to HDPE Pipe, Double Service, 2-inch Service x 8-inch Water Main	$_____	$_____
SS597SC-12	5	EA	Replace/Connect Water Service to HDPE Pipe, Double Service, 2-inch Service x 12-inch Water Main	$_____	$_____

SS597SC-16	5	EA	Replace/Connect Water Service to HDPE Pipe, Double Service, 2-inch Service x 16-inch Water Main	$_____	$_____
SS02225E	3,000	CY	Excavation	$_____	$_____
SS02225B	2500	CY	Backfill	$_____	$_____
SS02225GP	20	DAY	General Potholing	$_____	$_____
SS02225H	15	DAY	Hoe Ramming	$_____	$_____
SS02225P4	10	DAY	Dewatering Pump, Non-Muffled, 4-in	$_____	$_____
SS02225PM4	10	DAY	Dewatering Pump, Muffled, 4-in	$_____	$_____
SS02225P6	10	DAY	Dewatering Pump, Non-Muffled, 6-in	$_____	$_____
SS02225PM6	10	DAY	Dewatering Pump, Muffled, 6-in	$_____	$_____
SS02225P8	5	DAY	Dewatering Pump, Non-Muffled, 8-in	$_____	$_____
SS02225PM8	5	DAY	Dewatering Pump, Muffled, 8-in	$_____	$_____
SS02614-NCSC-4	1	EA	Temporary Waterline Stop, 4-in Dia, DI, CI, or PVC Type Pipe, for up to 1 full day, Installation and Removal	$_____	$_____

SS02614-NCSC-6	1	EA	Temporary Waterline Stop, 6-in Dia, DI, CI, or PVC Type Pipe, for up to 1 full day, Installation and Removal	$_____	$_____
SS02614-NCSC-8	1	EA	Temporary Waterline Stop, 8-in Dia, DI, CI, or PVC Type Pipe, for up to 1 full day, Installation and Removal	$_____	$_____
SS02614-NCSC-12	1	EA	Temporary Waterline Stop, 12-in Dia, DI, CI, or PVC Type Pipe, for up to 1 full day, Installation and Removal	$_____	$_____
SS02614-NCSC-16	1	EA	Temporary Waterline Stop, 16-in Dia, DI, CI, or PVC Type Pipe, for up to 2 full days, Installation and Removal	$_____	$_____
SS02614-NCSC-20	1	EA	Temporary Waterline Stop, 20-in Dia, DI, CI, or PVC Type Pipe, for up to 2 full days, Installation and Removal	$_____	$_____
SS02614-NCSC-24	1	EA	Temporary Waterline Stop, 24-in Dia, DI, CI, or PVC Type Pipe, for up to 3 full days, Installation and Removal	$_____	$_____
SS02614-NCSC-30	1	EA	Temporary Waterline Stop, 30-in Dia, DI, CI, or PVC Type Pipe, for up to 3 full days, Installation and Removal	$_____	$_____
SS02614-NCSC-36	1	EA	Temporary Waterline Stop, 36-in Dia, DI, CI, or PVC Type Pipe, for up to 4 full days, Installation and Removal	$_____	$_____

SS02614-NCSC-42	1	EA	Temporary Waterline Stop, 42-in Dia, DI, CI, or PVC Type Pipe, for up to 4 full days, Installation and Removal	$_____	$_____
SS02614-NCSC-48	1	EA	Temporary Waterline Stop, 48-in Dia, DI, CI, or PVC Type Pipe, for up to 5 full days, Installation and Removal	$_____	$_____
SS02614-CSC-16	1	EA	Temporary Waterline Stop, 16-in Dia, on CSC Type Pipe, for up to 3 full days, Installation and Removal	$_____	$_____
SS02614-CSC-20	1	EA	Temporary Waterline Stop, 20-in Dia, on CSC Type Pipe, for up to 3 full days, Installation and Removal	$_____	$_____
SS02614-CSC-24	1	EA	Temporary Waterline Stop, 24-in Dia, on CSC Type Pipe, for up to 4 full days, Installation and Removal	$_____	$_____
SS02614-CSC-30	1	EA	Temporary Waterline Stop, 30-in Dia, on CSC Type Pipe, for up to 4 full days, Installation and Removal	$_____	$_____
SS02614-CSC-36	1	EA	Temporary Waterline Stop, 36-in Dia, on CSC Type Pipe, for up to 4 full days, Installation and Removal	$_____	$_____
SS02614-CSC-42	1	EA	Temporary Waterline Stop, 42-in Dia, on CSC Type Pipe, for up to 5 full days, Installation and Removal	$_____	$_____

SS02614-CSC-48	1	EA	Temporary Waterline Stop, 48-in Dia, on CSC Type Pipe, for up to 7 full days, Installation and Removal	$_____	$_____
SS02614-CSC-54	1	EA	Temporary Waterline Stop, 54-in Dia, on CSC Type Pipe, for up to 7 full days, Installation and Removal	$_____	$_____
SS02614-CSC-60	1	EA	Temporary Waterline Stop, 60-in Dia, on CSC Type Pipe, for up to 7 full days, Installation and Removal	$_____	$_____
SS02614-CSC-66	1	EA	Temporary Waterline Stop, 66-in Dia, on CSC Type Pipe, for up to 10 full days, Installation and Removal	$_____	$_____
SS02614-NCSC->1D	10	DAY	Temporary Waterline Stop, Extra Days, DI, CI or PVC Pipe, 4-, 6-, 8-, 12-in Dia, Over 1 Day	$_____	$_____
SS02614-NCSC->2D	10	DAY	Temporary Waterline Stop, Extra Days, DI, CI or PVC Pipe, 16-, 20-in Dia, Over 2 Days	$_____	$_____
SS02614-NCSC->3D	10	DAY	Temporary Waterline Stop, Extra Days, DI, CI or PVC Pipe, 24-, 30-in Dia, Over 3 Days	$_____	$_____
SS02614-NCSC->4D	5	DAY	Temporary Waterline Stop, Extra Days, DI, CI or PVC Pipe, 36-, 42-in Dia, Over 4 Days	$_____	$_____
SS02614-NCSC->5D	5	DAY	Temporary Waterline Stop, Extra Days, DI, CI or PVC Pipe, 48-in Dia, Over 5 Days	$_____	$_____

SS02614-CSC->3D	10	DAY	Temporary Waterline Stop, Extra Days, CSC Pipe, 16-, 20-in Dia, Over 3 Days	$_____	$_____
SS02614-CSC->4D	10	DAY	Temporary Waterline Stop, Extra Days, CSC Pipe, 24-, 30-, 36-in Dia, Over 4 Days	$_____	$_____
SS02614-CSC->5D	5	DAY	Temporary Waterline Stop, Extra Days, CSC Pipe, 42-in Dia, Over 5 Days	$_____	$_____
SS02614-CSC->7D	5	DAY	Temporary Waterline Stop, Extra Days, CSC Pipe, 48-, 54-, 60-in Dia, Over 7 Days	$_____	$_____
SS02614-CSC->10D	5	DAY	Temporary Waterline Stop, Extra Days, CSC Pipe, 66-in Dia, Over 10 Days	$_____	$_____

BASE BID . . . . . **$**_____

- The “Base Bid” amount must be used in the MBE/WBE Compliance Plan Summary Page to determine subcontractor participation levels for the established MBE/WBE procurement goals.
- The “Base Bid” amount becomes the bidder’s “TOTAL BID” if allowances are not included.

In the event of a mathematical error, the correct product, determined by using the "Unit Price" and "Quantity", and the correct sum, determined by totaling the correct line item Amounts, will prevail over the amount entered by the Bidder. The unit prices shown above will be the unit prices used to tabulate the Bid and used in the Contract, if awarded by the City.

Notes:

1) MINIMUM WAGES: Workers on Project shall be paid not less than wage rates, including fringe benefits, as published by the Department of Labor (DOL) for Building Construction and Heavy and Highway Trades “AS APPLICABLE” and/or the minimum Wage required by City of Austin Ordinance No. 20160324-015, whichever is higher. The Total Minimum Wage required can be met using any combination of cash and non-cash qualified fringe benefits provided the cash component meets or exceeds the minimum wage required.

The CONTRACTOR will base its Bid amount on the CONTRACTOR’S unit prices and the estimated quantities of Work set forth in the Bid Form, which will only be used for the purpose of comparison and evaluation of Bids. The OWNER will subsequently issue Work Assignments based on the OWNER’s needs and not in accordance with the estimated quantities contained in the Bid documents up to the aggregated Contract Amount of six million ($6,000,000) dollars, subject to

further appropriations. The unit prices Bid by the successful Bidder shall remain firm throughout the initial term of the CONTRACT.

Bid prices may be adjusted for the Contract extension on the basis of an increase or decrease of the existing prices upwards or downwards in accordance with the 20 City average Engineering News Record Construction Cost Index (CCI) (at the time of notice of contract extension) divided by the current area CCI at the time of Bid. The adjusted prices will be included in a change order and will remain firm throughout the Contract extension period. Upon receipt of the notice of the exercise of the option for an additional contract term by the OWNER, the CONTRACTOR must request a Bid price adjustment in writing or the then current Bid prices will remain in force and effect.

Optional Information on Bid Prices Submitted by Computer Printout

In lieu of handwritten unit prices in figures in ink on the Bid forms above, Bidders, at their option, may submit an original computer printout sheet bearing certification by, and signature for, the Bidding firm. The unit prices shown on acceptable printouts will be the unit prices used to tabulate the Bid and used in the Contract if awarded by the City. As a minimum, computer printouts must contain all information and in the format shown on the attached page: "Example of Bid Prices Submitted by Computer Printout" form.

If a computer printout is used, the Bidder must still execute that portion of the unit price Bid form which acknowledges the Bid Guaranty, Time of Completion, Liquidated Damages, and all addenda that may have been issued.

Bids with unit prices by computer printout may be rejected, if:

1. The computer printout does not include the required certification, set forth in the attached “Example”.
2. The computer printout is not signed in the name of the firm to whom the Project Manual was issued.
3. The computer printout is non-responsive or otherwise omits required Bid items or includes items not shown on the Bid forms in the Project Manual.
4. The other required Bid documents issued by the City are not fully executed as provided above.
5. The signed Section 00300U-IDIQ is not returned with the signed computer printout.

If the Bid submitted by the Bidder contains both the form furnished by the City, completed according to the instructions, and also a computer printout, completed according to the instructions, unit prices of only one will be considered. In this situation, the unit Bid prices shown on the computer printout will be used to determine the Bid.

BID GUARANTY: A Bid guaranty must be enclosed with this Bid, as required in Section 00020-IDIQ, in the amount of not less than five percent (5%) of the total Bid. Following the Bid opening, submitted Bids may not be withdrawn for a period of one hundred twenty (120) Calendar Days. Award of Contract will occur within this period, unless mutually agreed between the parties. The Bid guaranty may become the property of the OWNER, or the OWNER may pursue any other action allowed by law, if:

- Bidder withdraws a submitted Bid within the period stated above;
- Bidder fails to submit the required post Bid information within the period specified in Section 00020-IDIQ or 00100, or any mutually agreed extension of that period; or
- Bidder fails to execute the Contract and furnish the prescribed documentation (bonds, insurance, etc.) needed to complete execution of the Contract within five (5) Working Days after notice of award, or any mutually agreed extension of that period.

TIME OF COMPLETION: The undersigned Bidder agrees to commence work on the date specified in each written "Notice to Proceed" to be issued by the OWNER and to **substantially and/or finally** complete construction of the improvements, as required by the Project Manual, Drawings and Addenda for the Work within the time indicated in each Work Assignment. The Bidder further agrees that should the Bidder fail to **substantially and/or finally complete the Work** and complete the Work within the number of days indicated in the Work Assignment or as subsequently adjusted, Bidder shall pay the liquidated damages for each consecutive day thereafter as provided below; unless the OWNER elects to pursue any other action allowed by law.

WAIVER OF ATTORNEY FEES: In submitting the Bid, in consideration for the waiver of the Bidder's right to attorney's fees by the OWNER, the Bidder knowingly and intentionally agrees to and shall waive the right to attorney's fees under Section 271.153 of the Texas Local Government Code in any administrative proceeding, alternative dispute resolution proceeding, or litigation arising out of or connected to any Contract awarded pursuant to this solicitation process.

LIQUIDATED DAMAGES: The Bidder understands and agrees that the timely completion of the described Work in each Work Assignment is of the essence. The Bidder and OWNER further agree that the OWNER's actual damages for delay caused by failure to timely complete the Project are difficult, if not impossible to measure. However, with respect to the additional administrative and consultant costs to be incurred by OWNER, the reasonable estimate of such damages has been calculated and agreed to by OWNER and Bidder. Therefore, the Bidder and the OWNER agree that for each and every **Calendar Day** the Work or any portion thereof, remains incomplete after the **Substantial Completion** date as established by the above paragraph, "Time of Completion", payment will be due to the OWNER in the amount of twelve-hundred dollars ($1,200) dollars per **Calendar Day** as liquidated damages, not as a penalty, but for delay damages to the OWNER. **If both Substantial and Final Completion dates have been specified, the Bidder and the OWNER further agree that for each and every Calendar Day the Work or any portion thereof, remains incomplete after the Final date as established by the above paragraph, "Time of Completion", payment will be due to the OWNER in the amount of four hundred and ten dollars ($410) per Calendar Day as liquidated damages, not as a penalty, but for delay damages to the OWNER.** Such amount shall be deducted by the OWNER from any Contract payment due. In the event of a default or breach by the CONTRACTOR and demand is made upon the surety to complete the project, in accordance with the Contract Documents, the surety shall be liable for liquidated damages pursuant to the Contract Documents in the same manner as the CONTRACTOR would have been.

OWNER reserves the right to reject any or all Bids and to waive any minor informality in any Bid or solicitation procedure (a minor informality is one that does not affect the competitiveness of the Bids).

The undersigned acknowledges receipt of the following addenda:

Addendum No. 1 dated _____ Received _____

Addendum No. 2 dated _____ Received _____

Addendum No. 3 dated _____ Received _____

Addendum No. 4 dated _____ Received _____

Addendum No. 5 dated _____ Received _____

BID DOCUMENT EXECUTION AND ACKNOWLEDGEMENT:

The undersigned Bidder certifies that the Bidder has read and understands the Section 00020-IDIQ Invitation for Bids, the Section 00100 Instructions to Bidders, and all other requirements applicable to the bidding process provided in the Bid and Contract Documents.

BIDDER's CERTIFICATION OF NON-COLLUSION, NON-CONFLICT OF INTEREST, AND ANTI-LOBBYING (Section 00440): The undersigned Bidder, by its signature, represents and certifies that it has read and can affirmatively swear and subscribe to the statements in Section 00440 Non-Collusion, Non-Conflict of Interest, and Anti-Lobbying Certification. If the Bidder cannot affirmatively swear and subscribe to any of the statements in Section 00440, Bidder represents and certifies that it has provided a detailed written explanation with its Bid on separate pages annexed hereto. The undersigned Bidder further certifies that it has not in any way directly or indirectly had communication restricted in the City Code Chapter 2-7, Article 6 (Anti-Lobbying and Procurement) during the No-Lobbying Period as defined in Chapter 2-7.

BIDDER's CERTIFICATION AS TO NONRESIDENT PROVISIONS (Section 00475): The undersigned Bidder certifies that it has read Section 00475 Nonresident Bidder Provisions and **Bidder certifies that Bidder is a resident of** _____ (*Bidder must write in the blank the state of which Bidder is a resident*).

Bidder will initial the blank set forth below to represent and certify that the Bidder has completed, executed, and enclosed the corresponding Bid Documents with the Bid.

____ MBE/WBE Compliance Document

____ One copy of Total Bid Form if Bid is submitted electronically via Austin Finance Online

____ Bid Guaranty

The undersigned, by their signature, represents that they are submitting a binding offer and are authorized to bind the respondent to fully comply with the solicitation documents contained herein. The Respondent, by submitting and signing below, certifies that they have received and read all sections of the entire solicitation document including all revisions, addenda and documents incorporated by reference, and agree to be bound by the terms therein.

_____ _____
Secretary, *if Bidder is a Corporation Bidder

_____ _____
Email for Secretary Authorized Signature/Print Name

_____
(Seal) Title

_____
Date

_____

_____
Address

_____
Telephone Number / FAX Number

_____
Email Address for Person Signing Bid

_____
Email Address for Bidder's Primary Contact Person

EXAMPLE: BID PRICES SUBMITTED BY COMPUTER PRINTOUT

Project Name:
CIP ID #:
IFB #:

Bid Item #	***Bid Item Description***	***Unit***	***Qty***	***Unit Bid Price***	***Total Amount***
				Total Bid:	

(YOUR FIRM'S NAME) certifies that the unit prices shown on this completed computer printout for all of the Bid items and the alternates contained in this proposal are the unit prices intended and that its Bid will be tabulated using these unit prices and no other information from this printout. (YOUR FIRM'S NAME) acknowledges and agrees that the total Bid amount shown will be read as its total Bid. *In the event of a mathematical error*, the correct product, determined by using the "Unit Price" and "Quantity", and the correct sum, determined by totaling the correct line item Amounts, will prevail over the amount entered by the Bidder.

Signed: _____

Title: _____

Date: _____

End

TOTAL BID FORM

Solicitation No.:	6100 CLMC 813
Project:	2021 Waterline On-Call Services Indefinite Delivery / Indefinite Quantity
Bidder:	
Total Bid Amount: (includes Base Bid plus any Allowances or Alternates shown in Section 00300)	

Notes:

1. This form will be displayed publicly in Austin Finance Online approximately one hour after the solicitation closes.
2. In the case of discrepancies between this form and Section 00300, Section 00300 takes precedence.

STATEMENT OF BIDDERS EXPERIENCE

Section 00400

Project Name:	2021 Waterline On-Call Services Indefinite Delivery Indefinite Quantity
Name of Bidder:	
Solicitation Number:	6100 CLMC 813
CIP ID Number:	2231.390

Bidder must complete all Attachments to Section 00400 clearly and comprehensively. If necessary, responses may be continued on separately attached sheets.

To be considered a responsive and responsible bidder, the apparent three (3) low Bidders must complete and submit within three (3) working days of notification of low bidder status Attachments A through I in accordance with Article 11, Section 00100. Contractor Performance Evaluations for previous work with the City will be included in the assessment of the Bidder's experience. Any information in Attachments A through I and in the Contractor's Performance Evaluations that indicates the Bidder or a "Subcontractor" is not responsible or that might negatively impact a Bidder's ability to complete the Work within the Contract Time and for the Contract Price may result in the Bid being rejected.

The Bidder is responsible for the accuracy and completeness of all of the information provided by the Bidder or a proposed Subcontractor in response to this Invitation for Bids.

POST-BID SUBMITTALS

ATTACHMENT A – BIDDER'S INFORMATION

ATTACHMENT B – EXPERIENCE REQUIREMENTS (GENERAL CONTRACTOR)

ATTACHMENT C – PROJECT MANAGER AND SUPERINTENDENT EXPERIENCE

ATTACHMENT D – EXPERIENCE REQUIREMENTS (SPECIFIC CONSTRUCTION OR TECHNICAL EXPERIENCE)

ATTACHMENT E – AVAILABLE EQUIPMENT

ATTACHMENT F – AVAILABLE WORKFORCE

ATTACHMENT G – CURRENT PROJECTS

ATTACHMENT H – COMPLETED PROJECTS

ATTACHMENT I – BIDDER'S AUTHENTICATION

ATTACHMENT A
BIDDER'S INFORMATION

Attention Bidder: Complete and return within three (3) days of notification of the three (3) low bidders' status.

Solicitation Number:	6100 CLMC 813
CIP ID Number:	2231.390

A.	**Name of Bidder:**	
B.	**Bidder's Permanent Address:**	
C.	**Bidder's Phone Number:**	
D.	**Number of years in business under current company name:**	

(Note: Bidder must have been in existence for a minimum of one (1) year under its current company name. Changes in company name during the experience period are acceptable, if the continuity of the company can be demonstrated. Attach separate documentation, if applicable.)

If Bidder answers "Yes" for <u>any</u> of questions E through H, Bidder must attach separate sheets with a brief description or explanation of the answer and provide pertinent contact information (parties' names, addresses and telephone numbers).

E.	**Has the Bidder ever defaulted on a contract?**	❒ **Yes**	❒ **No**
F.	**Are there currently any pending judgements, claims, or lawsuits against the Bidder?**	❒ **Yes**	❒ **No**
G.	**Does Bidder currently have any pending claims, judgements or lawsuits against any prior client?**	❒ **Yes**	❒ **No**
H.	**Is the Bidder or its principals involved in any bankruptcy or reorganization proceedings?**	❒ **Yes**	❒ **No**

ATTACHMENT B
EXPERIENCE REQUIREMENTS (GENERAL CONTRACTOR)

Attention Bidder: Complete and return within three (3) days of notification of the three (3) low bidders' status.

Solicitation Number:	6100 CLMC 813
CIP ID Number:	2231.390

GENERAL CONTRACTOR EXPERIENCE:

Bidder must list and describe Bidder's (not proposed subcontractors') construction experience as a general contractor for a minimum of three (3) successfully completed projects of comparable size, scope and complexity to the Work described in the Contract Documents. Bidder should refer to the Section 01010 Summary of Work, subsection 1.2 Description of Work, to determine what is reasonably comparable. Decisions on "comparability" are at the complete discretion of the OWNER.

Bidder must have completed the projects within the past five (5) years.

Attention Bidder: Duplicate this form for each of the three (3) projects.

PROJECT NO. _____		
Name of Project:		
Location:		
OWNER's Name and Address:		
OWNER's Contact Person (Print):		
Phone/Fax No.		
Initial Contract Price:		
Final Contract Price:		
Contract Start Date: *(Date of Notice to Proceed)*		
Contract Time:	Calendar Days:	Working Days:
Contract Substantial Completion Date:		
Actual Substantial Completion Date:		
If contract time extensions were added to the contract as a result of Bidder's responsibilities, provide a short explanation of each:		
Project Description and why it is comparable to this Contract:		

ATTACHMENT C
PROJECT MANAGER & SUPERINTENDENT EXPERIENCE

Attention Bidder: Complete and return within three (3) days of notification of the three (3) low bidders' status.

Name of Bidder:	
Solicitation Number:	6100 CLMC 813
CIP ID Number:	2231.390

Bidder must attach resumes for the Project Manager and Superintendent who will be assigned to this project. The resumes must demonstrate that these individuals have worked on at least three (3) similar, successfully completed projects in the capacity of Project Manager or Superintendent, or other responsible supervisory capacity, as applicable, during the last 10 years.

Project Manager (name): _____

Superintendent (name): _____

Note: Attach Resumes & Experience

Attention Bidder: Complete and return within three (3) days of notification of the three (3) low bidders' status.

SPECIFIC CONSTRUCTION EXPERIENCE (GENERAL CONTRACTOR OR SUBCONTRACTOR PERFORMING THE WORK)

Bidder must provide the following project history information for each Construction Experience requirement listed below. OWNER may in its reasonable discretion deem the provided experience information insufficient and reject the Bid.

For each Construction Experience item listed below, list and describe the applicable Construction Experience for a minimum of three (3) successfully completed projects of comparable size, scope, and complexity to the Work described for this project. Comparability requirements may be spread among the three (3) projects per item submitted, e.g. One Project may demonstrate comparable size, another Project may demonstrate comparable scope and another may demonstrate comparable complexity. Decisions on "comparability" are at the complete discretion of the OWNER.

The Work must have been performed within the past five (5) years.

Bidder must provide all requested information in a complete, clear, and accurate manner. If necessary, additional information may be provided on separate attached sheets. Failure to provide any requested information may cause the Bid to be rejected by OWNER as non-responsive.

If the Bidder proposes to fulfill any specific construction experience requirement with subcontracted resources, the applicable Subcontractor must be included in the Bidder's Original MBE/WBE Compliance Plan. Failure to include subcontractors on the MBE/WBE Compliance Plan may render your bid non-responsive.

SPECIFIC CONSTRUCTION EXPERIENCE ITEMS REQUIRED:

ITEM 1. Provide adequate equipment and emergency response services to assess and repair small and large diameter waterline (2" – 72") or associated appurtenances, including: ductile or cast iron, AND welded steel (AWWA C200) or concrete steel cylinder pipe (AWWA C301, C303); large diameter water valve repairs or replacement; confined space entry; traffic controls.

ITEM 2. Furnish and/or installation of welded steel pipe (AWWA C200) and/or CSC pipe (AWWA C301, C303).

ITEM 3. Furnish and/or installation of excavation safety systems in excess of 20 feet deep, while effectively removing groundwater or potable water from excavation.

ITEM 4. Installation of HDPE pipe by the Pipe Bursting Method, including service connections and connecting HDPE pipe to other pipe materials. HDPE pipe diameters shall include 8-, 12-, or 16-inch and total distance of Pipe Bursting experience shall be 10,000 linear feet minimum.

The Bidder shall complete and duplicate the following specific Construction Experience Form as required to provide the requested documentation for a minimum of three (3) successfully completed projects for each of the above specific Construction Experience requirements.

CONSTRUCTION EXPERIENCE DOCUMENTATION FORM		
EXPERIENCE ITEM NUMBER:		
Project Number:		
Does Bidder plan to self-perform this work?	☐ **Yes**	☐ **No**
If "NO", provide the following Subcontractor's information:		
Company's Address:		
Permanent Address:		
Phone No.		
# of years Subcontractor has been in business under current company name:		
Name of Project:		
Location:		
OWNER's Name:		
OWNER's Address:		
OWNER's Contact Person (Print):		
Phone/Fax No.:		
Initial Contract Price:		
Final Contract Price:		
Contract Start Date: *(Date of Notice to Proceed)*		
Contract Time:	Calendar Days:	Working Days:
Contract Substantial Completion Date:		
Actual Substantial Completion Date:		
If contract time extensions were added to the contract as a result of Bidder's responsibilities, provide a short explanation of each:		
Project Description and why it is comparable to this Contract:		

ATTACHMENT E
AVAILABLE EQUIPMENT LIST

Attention Bidder: Complete and return within three (3) days of notification of the three (3) low bidders' status.

Name of Bidder:	
Solicitation Number:	6100 CLMC 813
CIP ID Number:	2231.390

Provide a list of equipment that is available to the CONTRACTOR or its Subcontractor(s) and is specifically intended to be used on the Work under this Contract. Also indicate whether the equipment is owned or will be leased by the CONTRACTOR and/or Subcontractor(s).

EQUIPMENT	OWNED OR LEASED	COMMITTED TO ANOTHER PROJECT? (Yes / No)	AVAILABLE / RELEASE DATE

Use additional pages, as necessary

ATTACHMENT F
AVAILABLE WORKFORCE

Attention Bidder: Complete and return within three (3) days of notification of the three (3) low bidders' status.

Name of Bidder:	
Solicitation Number:	6100 CLMC 813
CIP ID Number:	2231.390

Provide a list of the available workforce for the various disciplines and crafts required for the Work on this Project, including the number of work crews, and number and worker classification for each equipment operator, mechanic, and laborer for that portion of the Work that Bidder will actually perform.

Number of Anticipated Work Crews: _____

DISCIPLINE OR CRAFT	NO. OF EMPLOYEES	COMMITTED TO ANOTHER PROJECT? (Yes / No)	AVAILABLE / RELEASE DATE
Professional (specify)			
Superintendent			
Technical (specify)			
Skilled Workers (specify)			
Semiskilled Workers (specify)			
Equipment Operators (list)			
Other			

Use additional pages, as necessary

ATTACHMENT G
CURRENT PROJECT LISTING (INCLUDING ALL CITY OF AUSTIN PROJECTS)

Attention Bidder: Complete and return within three (3) days of notification of the three (3) low bidders' status.

Name of Bidder:	
Solicitation Number:	6100 CLMC 813
CIP ID Number:	2231.390

Provide a list of <u>all current projects</u>, including *<u>all City of Austin projects</u>*. Include the following for all jobs that Bidder is currently committed to or has currently underway: brief statement regarding the job type; estimated project duration; project contact; and project description.

Name of Project:		
Location:		
Type of Job:		
City of Austin Job?	☐ **Yes**	☐ **No**
Project Start Date		
Estimated Completion Date:		
Project Contact:		
Brief Description:		

Name of Project:		
Location:		
Type of Job:		
City of Austin Job?	☐ **Yes**	☐ **No**
Project Start Date		
Estimated Completion Date:		
Project Contact:		
Brief Description:		

ATTACHMENT H
COMPLETED PROJECTS (INCLUDING ALL CITY OF AUSTIN PROJECTS)

Attention Bidder: Complete and return within three (3) days of notification of the three (3) low bidders' status.

Name of Bidder:	
Solicitation Number:	6100 CLMC 813
CIP ID Number:	2231.390

Provide a list of <u>all completed projects</u>, including <u>all City of Austin projects</u> that Bidder has completed in the past five (5) years by calendar year (or life of company if less than five (5) years). Include the following: a brief statement regarding the job type, the estimated project duration, project contact, and project description.

Calendar Year of _____

Name of Project:		
Location:		
Type of Job:		
City of Austin Job?	☐ **Yes**	☐ **No**
Project Duration:		
Project Contact:		
Brief Description:		

Name of Project:		
Location:		
Type of Job:		
City of Austin Job?	☐ **Yes**	☐ **No**
Project Duration:		
Project Contact:		
Brief Description:		

Use additional pages as necessary to achieve a representative listing covering 5 years

ATTACHMENT I
BIDDERS AUTHENTICATION

(Attention Bidder: Complete and return within three (3) days of notification of the three (3) low bidders' status)

Solicitation Number:	6100 CLMC 813
CIP ID Number:	2231.390

THE STATE OF TEXAS
COUNTY OF TRAVIS

I certify that my responses and the information provided in Attachments A-H are true and correct to the best of my personal knowledge and belief and that I have made no willful misrepresentations in this Section, nor have I withheld any relevant information in my statements and answers to questions. I am aware that any information given by me in this Section may be investigated and I hereby give my full permission for any such investigation and I fully acknowledge that any misrepresentations or omissions in my responses and information may cause my bid to be rejected.

Bidder's full name and entity status:

_____
Company's Name

_____
Signature, Authorized Representative of Bidder

_____
Title

_____
Date

END

CERTIFICATE OF NON-SUSPENSION OR DEBARMENT

Section 00405

Solicitation Number: _____ (to be filled in by Contractor)

The City of Austin is prohibited from contracting with or making prime or sub-awards to parties that are suspended or debarred or whose principals are suspended or debarred from Federal, State, or City of Austin Contracts. Covered transactions include procurement contracts for goods or services equal to or in excess of $25,000.00 and all non-procurement transactions. This certification is required for all bidders on all City of Austin Contracts to be awarded with values equal to or in excess of $25,000.00 and all non-procurement transactions.

The CONTRACTOR hereby certifies that its firm and its principals are not currently suspended or debarred from bidding on any Federal, State, or City of Austin Contracts.

Contractor's full name and entity status:

_____

_____
(Name/Signature of Authorized Official)

_____
Title

_____
Date

END

BIDDER'S SAFETY EXPERIENCE
(To Be Submitted Post-Bid)

Solicitation Number: _____ (to be filled in by Contractor)

NAME OF BIDDER: _____

Pursuant to Section 252.0435 of the Local Government Code, the OWNER will consider the safety records of bidders prior to awarding a City contract. Upon request, a bidder is required to provide information to demonstrate the safety and health performance of their company. The information obtained from a bidder or from other sources will be used to determine the bidder's safety record, and will not automatically be used to exclude the bidder from selection for this or any future procurement. The OWNER will consider the responses to this Section 00410 document separately when making a discretionary determination of whether to disqualify a bidder, and may also consider the cumulative impact of the information generated by the bidder's responses in making the determination. Bidders are responsible for reviewing the safety records of proposed subcontractors.

Upon notification from the OWNER, the three (3) apparent low bidders are required to provide the following information:

WORKERS' COMPENSATION EXPERIENCE MODIFICATION RATE DATA			
Provide bidder's Workers' Compensation **Experience Modification Rate (EMR)** Data using the loss experience that occurred within the past five years. Attach bidder's NCCI workers compensation experience rating sheets for the past five (5) years.		**Policy Year**	**EMR**
	Current EMR:		
	1 Year Ago:		
	2 Years Ago:		
	3 Years Ago:		
	4 Years Ago:		
Bidder's initialing here certifies that bidder does not have an EMR: _____ *(Submit a copy of bidder's Insurance Loss Run Reports for the last five years if bidder does not have an EMR.)*			
Bidder may include additional information explaining any circumstances that may have affected the company's EMR rate.			
Evaluation: Bidders with a 5-year EMR average that exceeds the 5-year industry average EMR by more than 25% may be deemed non-responsive.			

REGULATORY NOTICE AND CITATION HISTORY DATA	
Provide bidder's information regarding regulatory **OSHA and/or Environmental Protection Agency Notices and Citations** as follows: Describe federal, state, city/municipal or county OSHA notices of noncompliance or citations issued to or received by the bidder within the past three years or any notices from any environmental protection agency, including any notices or citations from any state agency or local government responsible for enforcing environmental protection or other health and safety laws or regulations of any state of the United States, received within the past three years.	**Provide a description of each on the OSHA/EPA form on the following page to include:** • Date of Citation/Notices • Issuing agency • Standard cited • Level of violation (i.e. serious, willful) • Dates and brief description(s) of the event(s) • Brief description(s) of actions taken to correct the violation(s) • Current status (Open, Closed, Contested) • If Closed, date of Closure • If Open, estimated date of Closure
Bidder may include additional information explaining any related circumstances.	
Evaluation: Information may be verified by referring to respective agency. More than two serious or more than one willful or repeated violation (investigation completed) within the past three years may deem the Bidder non-responsive.	

OSHA and/or Environmental Protection Agency Notices Within Past Three Years						
Date of Citation or Notice	Issuing Agency	Violation Level (i.e. serious, willful)	Brief description of event	Brief description of actions taken to correct violation(s)	Current Status (Open, Closed, Contested)	Closed Date, or if Open, estimated Close Date

INJURY AND ILLNESS INCIDENCE RATE DATA	
Provide bidder's ***Total Case Incidence Rate(s) (TCIR)** for the 3 most recent calendar years. Attach bidder's OSHA 300 and 300A logs for the past 3 years.	**TCIR Rates:** Current Rate: _____ 1 Year Ago: _____ 2 Years Ago: _____
DAYS AWAY, RESTRICTED, AND TRANSFER RATE DATA	
Provide bidder's ****Days Away, Restricted, and Transfer Rate(s) (DART)** for the three most recent calendar years.	**DART Rates:** Current Rate: _____ 1 Year Ago: _____ 2 Years Ago: _____
Bidder may include additional information explaining any circumstances that may have affected the submitted rates and/or their associated three year trends.	
Evaluation: Rates will be compared to the most recently published Bureau of Labor Statistics (BLS) national average for the Standard Industrial Classification code (SIC) or North American Industrial Classification Systems (NAICS) code for the construction industry. For consideration of another code within the construction industry, the Bidder must provide the code and justification. Bidders with a 3-year TCIR or DART average that exceeds the 3-year TCIR or DART industry average may be deemed non-responsive.	

**TCIR – To calculate the calendar year TCIR, determine the total number of all recordable injuries and illnesses that occurred during the year in question, divide that total by the total number of hours worked by all employees during that year, and multiply the result by 200,000.*

*** DART – To calculate the calendar year DART, determine the total number of recordable injuries and illnesses resulting in days away from work, restricted work activity, and/or job transfer that occurred during the year in question, divide that total by the total number of hours worked by all employees during that year, and multiply the result by 200,000.*

ACKNOWLEDGEMENT

THE STATE OF TEXAS

COUNTY OF TRAVIS

I certify that my responses and the information I have provided are true and correct to the best of my personal knowledge and belief and I have made no willful misrepresentations in this, or withheld any relevant information in my statements. I am aware that any information given by me in response to this Section 00410 may be investigated and I hereby give my full permission for any such investigations, and I fully acknowledge that any misrepresentations or omissions in my responses and information may cause my bid to be rejected or cause any contract based on misrepresentations to be cancelled.

Contractor's full name and entity status:

_____

_____
(Name/Signature of Authorized Official)

_____
Title

_____
Date

END

NON-COLLUSION, NON-CONFLICT OF INTEREST AND ANTI-LOBBYING

State of Texas

County of Travis

The term **"Bidder"**, as used herein, includes the individual or business entity submitting the bid includes the directors, officers, partners, managers, members, principals, owners, agents, representatives, employees, other parties in interest of the Bidder, and anyone or any entity acting for or on behalf of the Bidder, including a subcontractor in connection with this bid.

The terms **"City"** and **"Owner"** are synonymous.

1. **Anti-Collusion Statement.** The Bidder has not and will not in any way directly or indirectly:

   a. colluded, conspired, or agreed with any other person, firm, corporation, bidder or potential bidder to the amount of this bid or the terms or conditions of this bid.
   b. paid or agreed to pay any other person, firm, corporation bidder or potential bidder any money or anything of value in return for assistance in procuring or attempting to procure a contract or in return for establishing the prices in the attached bid or the bid of any other bidder.

2. **Preparation of Invitation for Bid and Contract Documents**. The Bidder has not received any compensation or a promise of compensation for participating in the preparation or development of the underlying bid or contract documents., In addition, the Bidder has not otherwise participated in the preparation or development of the underlying bid or contract documents, except to the extent of any comments or questions and responses in the bidding process, which are available to all bidders, so as to have an unfair advantage over other bidders, provided that the Bidder may have provided relevant product or process information to a consultant in the normal course of its business.

3. **Participation in Decision Making Process.** The Bidder has not participated in the evaluation of bids or proposals or other decision making process for this solicitation, and, if Bidder is awarded a contract hereunder, no individual, agent, representative, consultant or sub contractor or consultant associated with Bidder, who may have been involved in the evaluation or other decision making process for this solicitation, will have any direct or indirect financial interest in the Contract, provided that the Bidder may have provided relevant product or process information to a consultant in the normal course of its business.

4. **Present Knowledge.** Bidder is not presently aware of any potential or actual conflicts of interest regarding this solicitation, which either enabled Bidder to obtain an advantage over other bidders or would prevent Bidder from advancing the best interests of OWNER in the course of the performance of the Contract.

5. **City Code.** As provided in Sections 2-7-61 through 2-7-65 of the City Code, no individual with a substantial interest in Bidder is a City official or employee or is related to any City official or employee within the first or second degree of consanguinity or affinity.

6. **Chapter 176 Conflict of Interest Disclosure.** In accordance with Chapter 176 of the Texas Local Government Code, the Bidder:

   a. does not have an employment or other business relationship with any local government officer of OWNER or a family member of that officer that results in the officer of family member receiving taxable income;
   b. has not given a local government officer of OWNER one or more gifts, other than gifts of food lodging transportation or entertainment accepted as a guest, that have an aggregate value of more than $100 in the twelve-month period preceding the date the officer becomes aware of the execution of the Contract or that OWNER is considering doing business with the Bidder; and
   c. does not have a family relationship with a local government officer of OWNER in the third degree of consanguinity or the second degree of affinity.

   As required by Chapter 176, Bidder must file the Conflicts of Interest Questionnaire with the Purchasing Department no later than the seventh business day after the commencement of contract discussions or negotiations with the City or the submission of a Bid, response to a request for proposals, or other writing related to a potential contract with OWNER. The questionnaire must be updated not later than the seventh day after the date of an event that would make a statement in the questionnaire inaccurate or incomplete. There are statutory penalties for failure to comply with Chapter 176.

7. **Anti-Lobbying Ordinance.** On June 14, 2018, the Austin City Council adopted Ordinance No. 20180614-056 replacing Chapter 2.7, Article 6 of the City Code relating to Anti-Lobbying and Procurement. The policy defined in this Code applies to Solicitations for goods and/or services requiring City Council approval under City Charter Article VII, Section 15 (Purchase Procedures). The City requires Offerors submitting Offers on this Solicitation to certify that the Offeror has not in any way directly or indirectly had communication restricted in the ordinance section 2-7-104 during the No-Lobbying Period as defined in the Ordinance. The text of the City Ordinance is included in Section 00100 of this solicitation and is also posted on the Internet at:

   https://assets.austintexas.gov/purchase/downloads/New_ALO_Ordinance_No_20180614-056.pdf

8. **Texas Government Code Chapter 2270.** The City is prohibited from contracting with any "company", for goods and services unless the following verification is included in this contract.

   If CONTRACTOR qualifies as a "company", then CONTRACTOR verifies that it: (a) does not "boycott Israel"; and (b) will not "boycott Israel" during the term of this contract. For the purposes of this Section only, the terms "company" and "boycott Israel" have the meaning assigned by Texas Government Code Section 2270.001. CONTRACTOR's obligations under this Section, if any exist, will automatically cease or be reduced to the extent that the requirements of Texas Government Code Chapter 2270 are subsequently repealed, reduced, or declared unenforceable or invalid in whole or in part by any court or tribunal of competent jurisdiction or by the Texas Attorney General, without any further impact on the validity or continuity of this contract.

NOTE: THE ABOVE STATE LAW HAS RECENTLY BEEN TEMPORARILY ENJOINED. HOWEVER, IF THIS INJUNCTION IS LIFTED OR STAYED BY A COURT OR OTHER ENTITY OF COMPETENT JURISDICTION, THIS SECTION WILL BE AN ENFORCEABLE AND REQUIRED TERM OF YOUR CONTRACT WITH THE CITY. IF YOU DISAGREE WITH THE ABOVE PROVISION OF THE CONTRACT, PLEASE STRIKE THROUGH IT OR INDICATE YOUR OBJECTION ON THIS PAGE. YOUR BID WILL NOT BE AFFECTED BY STRIKING THROUGH THIS PROVISION AT THIS TIME. STRIKING THROUGH THE PROVISION OR STATING YOUR OBJECTION TO IT WILL NOT CAUSE THE CITY TO REJECT YOUR BID.

If the Bidder cannot affirmatively swear and subscribe to the forgoing statements, the Bidder shall provide a detailed written explanation on separate pages to be included with Bid.

END

NONRESIDENT BIDDER PROVISIONS

Section 00475

Solicitation Number: _____ (to be filled in by Contractor)

Bidder must answer the following questions in accordance with Vernon's Texas Statutes and Codes Annotated Government Code § 2252.002, as amended:

A. Is the bidder that is making and submitting this bid a "resident bidder" or a "non-resident bidder"?

Answer: _____

(1) Texas Resident Bidder - A bidder whose principal place of business is in Texas and includes a Contractor whose ultimate parent company or majority owner has its principal place of business in Texas.

(2) Nonresident Bidder - A bidder who is not a Texas Resident Bidder.

B. If the Bidder is a "Nonresident Bidder", does the state, in which the Nonresident Bidder's principal place of business is located, have a law requiring a Nonresident Bidder of that state to bid a certain amount or percentage under the bid of a Resident Bidder of that state in order for the nonresident bidder of that state to be awarded a contract on his bid in such state?

Answer: ❒ Yes ❒ No Which state? _____

If the answer to Question B is "yes", then what amount or percentage must a Texas Resident Bidder bid under the bid price of a Resident Bidder of that state in order to be awarded a contract on such bid in said state?

Answer: _____

END

STATE OF TEXAS
COUNTY OF TRAVIS

THIS AGREEMENT is made and entered into by and between the City of Austin, Texas, a municipal corporation, organized and existing under laws of State of Texas, acting through its City Manager or other duly authorized designee, hereinafter referred to as the "OWNER," and _____, of the City of _____, County of _____, and _____, hereinafter referred to as the "CONTRACTOR."
In consideration of the promises, performances, payments and agreements set forth herein CONTRACTOR hereby agree to commence and complete the following Project:

$	
(Figures)	**(Words)**

The Contract will be for an initial Insert Initial Term - month term, with Insert Number of Options possible Insert length of Terms - month extension(s) option(s). Extension of the Contract will be at the mutual agreement of both the OWNER and the CONTRACTOR. If the CONTRACTOR chooses not to renew, a hold over extension of the Contract term for up to 120 calendar days may be implemented by the OWNER to allow time for re-bidding. The OWNER reserves the right not to offer an extension. Work Assignments may be issued at any time during the term of the Contract. Work Assignments not completed by the expiration date of the Contract are subject to the terms and conditions of the Contract which will continue in full force and effect.

Subject to the further approval of the Austin City Council, the initial Contract Amount will not exceed Insert Initial Contract Amount for the initial Contract Term and Insert Amount for each Option for each extension option for a total potential Contract Amount not to exceed Insert Total of Initial Term and Options, which may be increased subject to the availability of funding and further approval of the Austin City Council.

The CONTRACTOR will base its bid amount on the CONTRACTOR's unit prices and the estimated quantities of Work set forth in the Bid Form, which will only be used for the purpose of the comparison and evaluation of Bids. The OWNER will subsequently issue Work Assignments based on the OWNER's needs and not in accordance with the estimated quantities contained in the Bid documents up to the aggregated Contract Amount of <**$_____**>, subject to further appropriations.

In consideration of the award and execution of this Contract, and in consideration of the waiver of its right to attorney's fees by the OWNER, the CONTRACTOR knowingly and intentionally waives its right to attorney's fees under Section 271.153 of the Texas Local Government Code in any administrative proceeding, alternative dispute resolution proceeding, or litigation arising out of or connected to this Contract.

SAMPLE

OWNER agrees to pay CONTRACTOR from available funds for performance of the Contract in accordance with the Bid and the provisions of the Contract Documents, subject to additions and deductions, as provided therein.

The OWNER's payment obligations are payable only and solely from funds available for the purposes of this Agreement.

Although drafted by OWNER, this Agreement, in event of any disputes over its meaning or application, shall be interpreted fairly and reasonably, and neither more strongly for nor against either party.

This Agreement is executed to be effective upon the date of the last party to sign.

The undersigned, by their signature, represents that they are authorized to bind the Contractor to fully comply with the Contract. The Contractor, by signing below, acknowledge that they have read the entire contract and agree to be bound by the terms contained herein.

OWNER

By:_____
City of Austin (Signature)

_____
Date

_____
Title of Signatory

CONTRACTOR

By:_____
(Signature)

_____
Date

_____
Printed Name of Signatory

_____
Title of Signatory, Authorized Representative

ATTEST (as applicable)

_____
Secretary of Corporate Bidder or Corporate General Partner *

END

SAMPLE

PERFORMANCE BOND
Section 00610

STATE OF TEXAS
COUNTY OF _____

Bond No. _____
C.I.P. ID No. _____

Project Name_____

Know All Men By These Presents: That _____ of the City of _____, County of _____, and State of _____, as Principal, and _____, a solvent company authorized under laws of the State of Texas to act as surety on bonds for principals, are held and firmly bound unto _____ (OWNER), in the penal sum of _____U.S. Dollars ($ _____U.S.) for payment whereof, well and truly to be made, said Principal and Surety bind themselves and their heirs, administrators, executors, successors and assigns, jointly and severally, by these presents:

Conditions of this Bond are such that, whereas, Principal has entered into a certain written contract with OWNER, dated the _____ day of _____, _____, which Agreement is hereby referred to and made a part hereof as fully and to the same extent as if copied at length herein.

Now, therefore, the condition of this obligation is such, that if said Principal shall faithfully perform said Agreement and shall in all respects duly and faithfully observe and perform all and singular covenants, conditions and agreements in and by said contract agreed and covenanted by Principal to be observed and performed, and according to true intent and meaning of said Agreement hereto annexed, then this obligation shall be void; otherwise to remain in full force and effect. If OWNER notifies Principal and Surety the OWNER is considering declaring Principal in default, Surety agrees to meet with OWNER and Principal no later than fifteen days after receipt of such notice to discuss methods of performing the Work of the Contract.

Provided, however, that this bond is executed pursuant to provisions of Chapter 2253, Texas Government Code as amended and all liabilities on this bond shall be determined in accordance with provisions of said Article to same extent as if it were copied at length herein.

Surety, for value received, stipulates and agrees that no change in Contract Time or Contract Amount shall in anywise affect its obligation on this bond, and it does hereby waive notice of any such change in Contract Time or Contract Amount.

In witness whereof, said Principal and Surety have signed and sealed this instrument this _____day of _____, _____.

_____	_____
Principal	Surety
By_____	By_____
(Signature)	(Signature)
Title_____	Title_____
Address_____	Address_____
_____	_____

SAMPLE

_____ _____

Telephone _____ Fax_____
E-Mail Address _____

Name and address of Resident Agent of Surety:
_____
_____

Note: Bond shall be issued by a solvent Surety company authorized to do business in Texas, and shall meet any other requirements established by law or by OWNER pursuant to applicable law. A copy of surety agent's "Power of Attorney" must be attached hereto.

END

SAMPLE

PAYMENT BOND
Section 00620

STATE OF TEXAS
COUNTY OF _____

Bond No. _____
C.I.P. ID No. _____

Project Name: _____

Know All Men By These Presents: That _____ of the City of _____, County of _____, and State of _____ as Principal, and _____, a solvent company authorized under laws of the State of Texas to act as surety on bonds for principals, are held and firmly bound unto _____ (OWNER), and all Subcontractors, workers, laborers, mechanics and suppliers as their interests may appear, all of whom shall have right to sue upon this bond in the penal sum of _____ U.S. Dollars ($_____ U.S.) for payment whereof, well and truly to be made, said Principal and Surety bind themselves and their heirs, administrators, executors, successors and assigns, jointly and severally, by these presents:

Conditions of this Bond are such that, whereas, Principal has entered into a certain written contract with OWNER, dated the _____ day of _____, _____, which Agreement is hereby referred to and made a part hereof as fully and to the same extent as if copied at length herein.

Now, therefore, condition of this obligation is such, that if the said Principal shall well and truly pay all Subcontractors, workers, laborers, mechanics, and suppliers, all monies to them owing by said Principals for subcontracts, work, labor, equipment, supplies and materials done and furnished for the construction of improvement of said Agreement, then this obligation shall be and become null and void; otherwise to remain in full force and effect.

Provided, however, that this bond is executed pursuant to provisions of Chapter 2253, Texas Government Code as amended and all liabilities on this bond shall be determined in accordance with provisions of said Article to same extent as if it were copied at length herein.

Surety, for value received, stipulates and agrees that no change in Contract Time or Contract Amount shall in anywise affect its obligation on this bond, and it does hereby waive notice of any such change in Contract Time or Contract Amount.

In witness whereof, said Principal and Surety have signed and sealed this instrument this _____day of _____, _____.

_____	_____
Principal	Surety
By_____ (Signature)	By_____ (Signature)
Title_____	Title_____

Address_____ Address_____
_____ _____
_____ _____

Telephone_____Fax_____

E-Mail Address _____

Name and address of Resident Agent of Surety:
_____
_____

Note: Bond shall be issued by a solvent Surety company authorized to do business in Texas, and shall meet any other requirements established by law or by OWNER pursuant to applicable law. A copy of surety agent's "Power of Attorney" must be attached hereto.

END

NON-DISCRIMINATION AND NON-RETALIATION CERTIFICATE

Section 00630

City of Austin, Texas
Equal Employment/Fair Housing Office

To: City of Austin, Texas, ("OWNER")

Our firm conforms to the Code of the City of Austin Section 5-4-2 as reiterated below:

Chapter 5-4. Discrimination in Employment by City Contractors.

Sec. 4-2 Discriminatory Employment Practices Prohibited. (B) As an Equal Employment Opportunity (EEO) employer, the Contractor will conduct its personnel activities in accordance with established federal, state and local EEO laws and regulations and agrees:

(1) Not to engage in any discriminatory employment practice defined in this chapter.
(2) To take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without discrimination being practiced against them as defined in this chapter. Such affirmative action shall include, but not be limited to: all aspects of employment, including hiring, placement, upgrading, transfer, demotion, recruitment, recruitment advertising; selection for training and apprenticeship, rates of pay or other forms of compensation, and layoff or termination.
(3) To post in conspicuous places, available to employees and applicants for employment, notices to be provided by OWNER setting forth the provisions of this chapter.
(4) To state in all solicitations or advertisements for employees placed by or on behalf of Contractor, that all qualified applicants will receive consideration for employment without regard to race, creed, color, religion, national origin, sexual orientation, gender identity, disability, veteran status, sex or age.
(5) To obtain a written statement from any labor union or labor organization furnishing labor or service to Contractors in which said union or organization has agreed not to engage in any discriminatory employment practices as defined in this chapter and to take affirmative action to implement policies and provisions of this chapter.
(6) To cooperate fully with OWNER's Equal Employment/Fair Housing Office in connection with any investigation or conciliation effort of said Equal Employment/Fair Housing Office to ensure that the purpose of the provisions against discriminatory employment practices are being carried out.
(7) To require compliance with provisions of this chapter by all subcontractors having fifteen or more employees who hold any subcontract providing for expenditure of $2,000.00 or more in connection with any contract with OWNER subject to the terms of this chapter.

For the purposes of this Bid and any resulting Contract, Contractor adopts the provisions of the City's Minimum Standard Nondiscrimination and Non-Retaliation Policy as set forth below.

City of Austin
Minimum Standard Non-Discrimination and Non-Retaliation in Employment Policy

As an Equal Employment Opportunity (EEO) employer, the Contractor will conduct its personnel activities in accordance with established federal, state and local EEO laws and regulations.

The Contractor will not discriminate against any applicant or employee based on race, creed, color, national origin, sex, age, religion, veteran status, gender identity, disability, or sexual orientation. This policy covers all aspects of employment, including hiring, placement, upgrading, transfer, demotion, recruitment, recruitment advertising, selection for training and apprenticeship, rates of pay or other forms of compensation, and layoff or termination.

The Contractor agrees to prohibit retaliation, discharge or otherwise discrimination against any employee or applicant for employment who has inquired about, discussed or disclosed their compensation.

Further, employees who experience discrimination, sexual harassment, or another form of harassment should immediately report it to their supervisor. If this is not a suitable avenue for addressing their complaint, employees are advised to contact another member of management or their human resources representative. No employee shall be discriminated against, harassed, intimidated, nor suffer any reprisal as a result of reporting a violation of this policy. Furthermore, any employee, supervisor, or manager who becomes aware of any such discrimination or harassment should immediately report it to executive management or the human resources office to ensure that such conduct does not continue.

Contractor agrees that to the extent of any inconsistency, omission, or conflict with its current non-discrimination and non- retaliation employment policy, the Contractor has expressly adopted the provisions of the City's Minimum Non-Discrimination Policy contained in Section 5-4-2 of the City Code as set forth above and the City's Non-Retaliation Policy, as the Contractor's Non-Discrimination and Non-Retaliation Policy or as an amendment to such Policy and such provisions are intended to not only supplement the Contractor's policy, but will also supersede the Contractor's policy to the extent of any conflict.

UPON CONTRACT AWARD, THE CONTRACTOR SHALL PROVIDE A COPY TO THE CITY OF THE CONTRACTOR'S NON-DISCRIMINATION AND NON-RETALIAITON POLICY ON COMPANY LETTERHEAD, WHICH CONFORMS IN FORM, SCOPE, AND CONTENT TO THE CITY'S MINIMUM NON-DISCRIMINATION AND NON-RETALIATION POLICY, AS SET FORTH HEREIN, ***OR*** *THIS NON-DISCRIMINATION AND NON-RETALIATION POLICY, WHICH HAS BEEN ADOPTED BY THE CONTRACTOR FOR ALL PURPOSES (THE FORM OF WHICH HAS BEEN APPROVED BY THE CITY'S EQUAL EMPLOYMENT/FAIR HOUSING OFFICE), WILL BE CONSIDERED THE CONTRACTOR'S NON-DISCRIMINATION AND NON-RETALIATION POLICY WITHOUT THE REQUIREMENT OF A SEPARATE SUBMITTAL.*
(http://austintexas.gov/page/bid-docs).

Sanctions:

Our firm understands that non-compliance with Chapter 5-4 may result in sanctions, including termination of the contract and suspension or debarment from participation in future City contracts until deemed compliant with the requirements of Chapter 5-4.

Term:
The Contractor agrees that this Section 00630 Non-Discrimination and Non-Retaliation Certificate or the Contractor's separate conforming policy, which the Contractor has executed and filed with the Owner, will remain in force and effect for one year from the date of filing. The Contractor further agrees that, in consideration of the receipt of continued Contract payments, the Contractor's Non-Discrimination Policy will automatically renew from year-to-year for the term of the underlying Contract.

END

TITLE VI ASSURANCES APPENDIX A

Section 00631

Solicitation Number: _____ (to be filled in by Contractor)

During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. Compliance with Regulations: The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, the Federal Highway Administration, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

2. Nondiscrimination: The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate either directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 C.F.R. part 21.

3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding or negotiation made by the contract for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Nondiscrimination on the grounds of race, color, or national origin.

4. Information and Reports: The contractor shall provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its book, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the Federal Highway Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information the contractor will so certify to the Recipient, or the Federal Highway Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

5. Sanctions for Noncompliance: In the event of the contractor's noncompliance with the Nondiscrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:

   (a) withholding of payments to the contractor under the contract until the contractor complies, and or
   (b) cancelling, terminating or suspending a contract, in whole or in part.

6. Incorporation of Provisions: The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, that if a

contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

(Source: DOT 1050.2A, Updated DOT Standard Title VI Assurances and Non-Discrimination Provisions 10/22/2013. Must be inserted into every contract/agreement regardless of funding sources.)

Contractor's full name and entity status:

_____

_____
(Name/Signature of Authorized Official)

_____
Title

_____
Date

END

TITLE VI ASSURANCES APPENDIX E
Section 00632

Solicitation Number: _____ (to be filled in by Contractor)

During the performance of this contract, the contractor (hereinafter includes consultants), for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following nondiscrimination statutes and authorities; including but not limited to:

Pertinent Nondiscrimination Authorities:

1. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 C.F.R. Part 21.

2. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C.§ 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);

3. Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex);

4. Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 C.F.R. Part 27;

5. The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);

6. Airport and Airway Improvement Act of 1982, (49 U.S.C. § 4 71, Section 4 7123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);

7. The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, subrecipients and contractors, whether such programs or activities are Federally funded or not);

8. Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;

9. The Federal Aviation Administration's Nondiscrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);

10. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;

11. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP).

12. To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);

13. Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

(Source: DOT 1050.2A, Updated DOT Standard Title VI Assurances and Non-Discrimination Provisions 10/22/2013. Must be inserted into every contract/agreement regardless of funding sources.)

Contractor's full name and entity status:

_____

_____
(Name/Signature of Authorized Official)

_____
Title

_____
Date

END

CERTIFICATE OF INSURANCE

Section 00650

This Certificate shall be completed by a licensed insurance agent:

Name and Address of Agency:

_____

_____

_____

Phone: _____ / _____

Name and Address of Insured:

_____

_____

_____

Phone: _____/ _____

Prime or Sub-Contractor?: _____

Name of Prime Contractor, if different from Insured: _____

City of Austin Reference:

Project Name:

C.I.P. No.:

Project Location:

Managing Dept.:

Contract No.:

Project Mgr.:

Insurers Affording Coverages:

Insurer A: _____

Insurer B: _____

Insurer C: _____

Insurer D: _____

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFE-CTIVE DATE (MM/DD/YYYY)	POLICY EXPIR-ATION DATE (MM/DD/YYYY)	LIMITS OF LIABILITY	
	Commercial General Liability Policy As defined in the Policy, does the Policy provide:				Each Occurrence	$
					General Aggregate	$
	☐ Yes ☐ No -- Completed Operations/Products				Completed Operations /Products Aggregate	$
	☐ Yes ☐ No -- Contractual Liability				Personal & Advertising Injury	$
	☐ Yes ☐ No -- Explosion				Deductible or Self Insured Retention	$
	☐ Yes ☐ No -- Collapse					
	☐ Yes ☐ No -- Underground					
	☐ Yes ☐ No -- Contractors/ Subcontractors Work					
	☐ Yes ☐ No -- Aggregate Limits per Project Form CG 2503					
	☐ Yes ☐ No -- Additional Insured Form – CG 2010 and CG2037					
	☐ Yes ☐ No -- 30 Day Notice of Cancellation Form – CG 0205					
	☐ Yes ☐ No -- Waiver of Subrogation Form – CG 2404					
	Pollution/ Environmental Impairment Policy				Occurrence	$
					Aggregate	$

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFE-CTIVE DATE (MM/DD/YYYY)	POLICY EXPIR-ATION DATE (MM/DD/YYYY)	LIMITS OF LIABILITY	
	Auto Liability Policy As defined in the Policy, does the Policy provide:				CSL	$
					Bodily Injury (Per Accident)	$
	☐ Yes ☐ No -- Any Auto				Bodily Injury (Per Person)	$
	☐ Yes ☐ No -- All Owned Autos				Property Damage (Per Accident)	$
	☐ Yes ☐ No -- Non-Owned Autos					
	☐ Yes ☐ No -- Hired Autos					
	☐ Yes ☐ No -- Waiver of Subrogation – CA0444					
	☐ Yes ☐ No -- 30 Day Notice of Cancellation – CA0244					
	☐ Yes ☐ No -- Additional Insured – CA2048					
	☐ Yes ☐ No -- MCS 90					
	Excess Liability ☐ Umbrella Form ☐ Excess Liability Follow Form				Occurrence	$
					Aggregate	$
	Workers Compensation and Employers Liability As defined in the Policy, does the Policy provide:				☐ Statutory	
					Each Accident	$
	☐ Yes ☐ No -- Waiver of Subrogation – WC420304				Disease – Policy Limit	$
	☐ Yes ☐ No -- 30 Day Notice of Cancellation – WC420601				Disease – Each Employee	$
	Is a Builders Risk or Installation Insurance Policy provided? ☐ Yes ☐ No					$
	☐ Yes ☐ No -- Is the City shown as loss payee/mortgagee?					
	Professional Liability As defined in the Policy, does the Policy provide:				Each Claim	$
	☐ Yes ☐ No -- 30 Day Notice of Cancellation Retroactive Date: _____				Deductible or Self Insured Retention	$

This form is for informational purposes only and certifies that policies of insurance listed above have been issued to insured named above and are in force at this time. Not withstanding any requirements, term or condition of any contract or other document with respect to which this certificate may be issued or may pertain, insurance afforded by policies described herein is subject to all terms, exclusions and conditions of such policies.

CERTIFICATE HOLDER:

DATE ISSUED: _____

City of Austin
Capital Contracting Office
P.O. Box 1088
Austin, Texas 78767

_____
AUTHORIZED REPRESENTATIVE SIGNATURE
Licensed Insurance Agent

END

TEXAS SALES AND USE TAX EXEMPTION CERTIFICATE

City of Austin, Texas

P.O. Box 1088

Austin, Texas 78767

CONTRACTOR / PURCHASER: _____

Street Address: _____

City, State, ZIP Code: _____

PROJECT: _____

Project Manager: _____

FDU No.: _____

CIP ID No.: _____

Description of items to be purchased or as described on the attached order or invoice:

_____

_____

The Contractor may purchase all labor, materials, supplies, and equipment to be incorporated in the City of Austin realty, including easements, or completely consumed at the Project jobsite and services required by or integral to the performance of the contract for the Project without paying sales or use tax in accordance with State Comptroller Rule 3.291.

Contractor/Purchaser claims this exemption for the following reason: This contract is to be performed for the City of Austin, a tax exempt entity under the Texas Tax Code.

I understand that I will be liable for payment of sales and use taxes which may become due for failure to comply with the provisions of the Tax Code. I also understand that it is a criminal offense to give an exemption certificate to the contractor for taxable items that I know, at the time of purchase, will be used in a manner other than that expressed in this certificate and depending on the amount of tax evaded, the offense may range from a Class B misdemeanor to a felony of the second degree.

City of Austin, Texas	Title	Date
Elaine Hart ELAINE HART	DEPUTY CITY MANGER/CHIEF FINANCIAL OFFICER	January 11, 2019

CONTRACTOR/PURCHASER: _____

By: _____

Title: _____

Date: _____

NOTE: This certificate cannot be issued for the purchase, lease, or rental of a motor vehicle.

THIS CERTIFICATE DOES NOT REQUIRE A NUMBER TO BE VALID. Sales and Use Tax "Exemption Numbers" or "Tax Exempt" Numbers do not exist. This certificate should be furnished to the supplier. Do not send the completed certificate to the Comptroller of Public Accounts.

End

NON-USE OF ASBESTOS AFFIDAVIT (CONTRACTOR PRIOR TO CONSTRUCTION)

Section 00680

STATE OF TEXAS
COUNTY OF TRAVIS

BEFORE ME, the undersigned authority, personally appeared the Affiant who, being by me first duly sworn, upon oath deposed and stated:

"My name is _____, hereinafter known as Affiant. "I am over the age of 18 years and I have never been convicted of a crime. I am the _____of_____ hereinafter known as CONTRACTOR.

"I am fully competent to make this affidavit. I have personal knowledge of the facts set forth below and they are all true and correct.

"WHEREAS CONTRACTOR has submitted a bid to the City of Austin as the Prime CONTRACTOR and anticipates being awarded a contract for the construction of _____located at_____, Austin, Texas, hereinafter known as Project, for the City of Austin, Texas, hereinafter known as OWNER, and "WHEREAS asbestos in a dust form is a recognized health hazard, and "WHEREAS the OWNER desires not to have any asbestos containing materials used or incorporated into the construction of the Project; "THEREFORE the CONTRACTOR affirms and understands the following:

1. The CONTRACTOR, any person, firm or organization representing or represented by the CONTRACTOR, or employed by the CONTRACTOR shall not cause or allow any material to be incorporated into the construction of the project, or allow any building material on the project site that is an asbestos containing material or any other material defined as containing asbestos by any laws, rules or regulations promulgated by the United States Government, the State of Texas or any governmental organization or agency operating under the authority of either of those entities.

2. Realizing that there might be some materials in which a satisfactory non-asbestos containing material could not be obtained, the Consultant has received prior approval from the OWNER before specifying any such asbestos containing material. Those approved materials are the only asbestos containing materials that are exempt from the above prohibition.

3. The CONTRACTOR certifies and affirms their understanding that if any asbestos containing materials not approved by the City of Austin for inclusion into the Project, are determined, as a result of any inspection and sample analysis performed by an individual(s) and/or firm(s) certified and/or licensed to perform such inspection by the United States Government and/or the State of Texas, to have been incorporated into the construction of the Project, or brought onto the site of the Project, the OWNER shall look to the CONTRACTOR for reimbursement of any and all costs incurred in the removal and/or other abatement of said asbestos containing materials.

4. CONTRACTOR further understands that OWNER shall also look to the CONTRACTOR for any and all damages to OWNER which result from the inability of the OWNER to use any portion or all of the Project due to the incorporation of asbestos containing materials that have not been approved by OWNER.

5. CONTRACTOR further understands that OWNER will pursue reimbursement of any said cost and compensation for any said damages from the CONTRACTOR by any and every means within OWNER's right and power.

Signature of Affiant: _____

STATE OF TEXAS
COUNTY OF TRAVIS

ON _____, 20___, personally appeared_____ and been duly sworn by me, subscribed to the foregoing affidavit and has stated that the facts stated therein are true and correct.

_____
Notary Public, State of Texas

_____
Printed Name of Notary

My Commission Expires:_____

END

NON-USE OF ASBESTOS AFFIDAVIT (CONTRACTOR AFTER CONSTRUCTION)

Section 00681

STATE OF TEXAS
COUNTY OF TRAVIS

BEFORE ME, the undersigned authority, personally appeared the Affiant who, being by me first duly sworn, upon oath deposed and stated:

"My name is _____, hereinafter known as Affiant. "I am over the age of 18 years and I have never been convicted of a crime. I am the _____of_____ hereinafter known as CONTRACTOR.

"I am fully competent to make this affidavit. I have personal knowledge of the facts set forth below and they are all true and correct.

"WHEREAS CONTRACTOR was awarded a Contract for, and was the Prime CONTRACTOR for the construction of _____ located at _____, Austin, Texas, hereinafter known as Project, for the City of Austin, Texas, hereinafter known as OWNER, and "WHEREAS asbestos in a dust form is a recognized health hazard, and "WHEREAS the OWNER desires not to have any asbestos containing materials used or incorporated into the construction of the Project; "THEREFORE the CONTRACTOR affirms and understands the following:

1. The CONTRACTOR, any person, firm or organization representing or represented by the CONTRACTOR, or employed by the CONTRACTOR has not caused or allowed any material to be incorporated into the construction of the project, or allowed any building material on the project site that is an asbestos containing material or any other material defined as containing asbestos by any laws, rules or regulation promulgated by the United States Government, the State of Texas or any governmental organization or agency operating under the authority of either of those entities.

2. Realizing that there were some materials in which a satisfactory non-asbestos containing material could not be obtained, the Consultant received prior approval from the OWNER before specifying any such asbestos containing material. Those approved materials were the only asbestos containing materials incorporated into the construction of the Project and are listed below, with their locations:

_____

_____

_____

3. The CONTRACTOR certifies and affirms their understanding that if any asbestos containing materials not approved by the City of Austin for inclusion into the Project, are determined, as a result of any inspection and sample analysis performed by an individual(s) and/or firm(s) certified and/or licensed to perform such inspection by the United States Government and/or the State of Texas, to have been incorporated into the construction of the Project, or brought onto the site of the Project, the OWNER shall look to the CONTRACTOR for reimbursement of any and all costs incurred in the removal and/or other abatement of said asbestos containing materials.

4. CONTRACTOR further understands that OWNER shall also look to the CONTRACTOR for any and all damages to OWNER which result from the inability of the OWNER to use any portion or all of the Project due to the incorporation of asbestos containing materials that have not been approved by OWNER.

5. CONTRACTOR further understands that OWNER will pursue reimbursement of any said cost and compensation for any said damages from the CONTRACTOR by any and every means within OWNER's right and power.

Signature of Affiant:_____

STATE OF TEXAS
COUNTY OF TRAVIS

On _____, 20___, personally appeared_____ and been duly sworn by me, subscribed to the foregoing affidavit and has stated that the facts stated therein are true and correct.

_____
Notary Public, State of Texas

_____
Printed Name of Notary

My Commission Expires: _____

END

Bidding Requirements, Contract Forms and Conditions of the Contract

GENERAL CONDITIONS OF THE CONTRACT

Section 00700

General Conditions Table of Contents

ARTICLE 1 - DEFINITIONS 2
ARTICLE 2 - PRELIMINARY MATTERS 6
ARTICLE 3 - CONTRACT DOCUMENTS: INTENT, AMENDING, REUSE 8
ARTICLE 4 - AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; REFERENCE POINTS 9
ARTICLE 5 - BONDS AND INSURANCE 12
ARTICLE 6 - CONTRACTOR'S RESPONSIBILITIES 15
ARTICLE 7 - OTHER WORK 27
ARTICLE 8 - OWNER'S RESPONSIBILITIES 28
ARTICLE 9 - ENGINEER/ARCHITECT'S STATUS DURING CONSTRUCTION 29
ARTICLE 10 - CHANGES IN THE WORK 30
ARTICLE 11 - CHANGE OF CONTRACT AMOUNT 33
ARTICLE 12 - CHANGE OF CONTRACT TIMES 35
ARTICLE 13 - TESTS AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK 37
ARTICLE 14 - PAYMENTS TO CONTRACTOR AND COMPLETION 40
ARTICLE 15 - SUSPENSION OF WORK AND TERMINATION 46
ARTICLE 16 - DISPUTE RESOLUTION 49
ARTICLE 17 - MISCELLANEOUS 52

ARTICLE 1 – DEFINITIONS

Whenever used in these General Conditions or in the other Contract Documents the following terms have the meanings indicated which are applicable to both the singular and plural thereof:

1.1 Addendum - Written instruments issued by the Contract Awarding Authority which clarify, correct or change the bidding requirements or the Contract Documents prior to the Due Date. "Addenda" is the plural form of Addendum.

1.2 Agreement - Prescribed form, Section 00500.

1.3 Alternative Dispute Resolution - The process by which a disputed Claim may be settled if the OWNER and the CONTRACTOR cannot reach an agreement between themselves, as an alternative to litigation.

1.4 Bid - A complete, properly signed response to an Invitation for Bid that, if accepted, would bind the Bidder to perform the resultant Contract.

1.5 Bidder - A person, firm, or entity that submits a Bid in response to a Solicitation. Any Bidder may be represented by an agent after submitting evidence demonstrating the agent's authority. The agent cannot certify as to his own agency status.

1.6 Bid Documents - The advertisement or Invitation for Bids, instructions to Bidders, the Bid form, the Contract Documents and Addenda.

1.7 Calendar Day - Any day of the week; no days being excepted. Work on Saturdays, Sundays, and/or Legal Holidays shall be coordinated with OWNER.

1.8 Change Directive - A written directive to CONTRACTOR, signed by OWNER, ordering a change in the Work and stating a proposed basis for adjustment, if any, in the Contract Amount or Contract Time, or both. A Change Directive may be used in the absence of total agreement on the terms of a Change Order. A Change Directive does not change the Contract Amount or Contract Time, but is evidence that the parties expect that the change directed or documented by a Change Directive will be incorporated in a subsequently issued Change Order.

1.9 Change Orders - Written agreements entered into between CONTRACTOR and OWNER authorizing an addition, deletion, or revision to the Contract, issued on or after the Execution Date of the Agreement.

1.10 Claim - A written demand seeking, as a matter of right, adjustment or interpretation of Contract terms, payment of money, extension of time or other relief with respect to the terms of the Contract.

1.11 Contract - The binding legal agreement between the OWNER and the CONTRACTOR. The Contract represents the entire and integrated agreement between OWNER and CONTRACTOR for performance of the Work, as evidenced by the Contract Documents.

1.12 Contract Amount - The moneys payable by OWNER to CONTRACTOR for completion of the Work in accordance with the Contract Documents.

1.13 Contract Awarding Authority - A City department authorized to enter into Contracts on behalf of the City.

1.14 Contract Documents - Project Manual, Drawings, Addenda and Change Orders.

1.15 Contract Time - The number of days allowed for completion of the Work as defined by the Contract. When any period is referred to in days, it will be computed to exclude the first and include the last day of such period. A day of twenty-four hours measured from midnight to the next midnight will constitute a day.

1.16 CONTRACTOR - The individual, firm, corporation, or other business entity with whom OWNER has entered into the Contract for performance of the Work.

1.17 Critical Path - The longest series of tasks that runs consecutively from the beginning to the end of the project, as determined by duration and workflow sequence. This longest path sets the managerial standard for how quickly a project can be completed, given appropriate resources.

1.18 Drawings - Those portions of the Contract Documents which are graphic representations of the scope, extent and character of the Work to be furnished and performed by CONTRACTOR and which have been approved by OWNER. Drawings may include plans, elevations, sections, details, schedules and diagrams. Shop Drawings are not Drawings as so defined.

1.19 Due Date - The date and time specified for receipt of Bids.

1.20 Engineer/Architect (E/A) - The OWNER's design professional identified as such in the Contract. The titles of "Architect/Engineer," "Architect" and "Engineer" used in the Contract Documents shall read the same as Engineer/Architect (E/A). Nothing contained in the Contract Documents shall create any contractual or agency relationship between E/A and CONTRACTOR.

1.21 Equal - The terms "equal" or "approved equal" shall have the same meaning.

1.22 Execution Date - Date of last signature of the parties to the Agreement.

1.23 Field Order - A written order issued by Owner's Representative which orders minor changes in the Work and which does not involve a change in the Contract Amount or the Contract Time.

1.24 Final Completion - The point in time when OWNER determines that all Work has been completed and final payment to CONTRACTOR will be made in accordance with the Contract Documents.

1.25 Force Account - a basis of payment for the direct performance of Work with payment based on the actual cost of the labor, equipment and materials furnished and consideration for overhead and profit as set forth in Section 11.5.

1.26 Inspector - The authorized representative of any regulatory agency that has jurisdiction over any portion of the Work.

1.27 Invitation for Bid (IFB) - a Solicitation requesting pricing for a specified Good or Service which has been advertised for Bid in a newspaper and/or the Internet.

1.28 Legal Holidays

1.28.1 The following are recognized by the OWNER:

Holiday	Date Observed
New Year's Day	January 1
Martin Luther King, Jr.'s Birthday	Third Monday in January
President's Day	Third Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Veteran's Day	November 11
Thanksgiving Day	Fourth Thursday in November
Friday after Thanksgiving	Friday after Thanksgiving
Christmas Eve	December 24
Christmas Day	December 25

1.28.2 If a Legal Holiday falls on Saturday, it will be observed on the preceding Friday. If a Legal Holiday falls on Sunday, it will be observed on the following Monday.

1.28.3 Christmas Eve is observed only if it falls on a Monday through Thursday. If Christmas Eve falls on a Friday, that day is observed as the Christmas Day holiday.

1.29 Milestones - A significant event specified in the Contract Documents relating to an intermediate completion date or time prior to Substantial Completion of all the Work.

1.30 Notice to Proceed - A Written Notice given by OWNER to CONTRACTOR fixing the date on which the Contract Times will commence to run and on which CONTRACTOR shall start to perform CONTRACTOR's obligations under the Contract Documents.

1.31 OWNER - City of Austin, Texas, a municipal corporation, home rule city and political subdivision organized and existing under the laws of the State of Texas, acting through the City Manager or his/her designee, officers, agents or employees to administer design and construction of the Project.

1.32 Owner's Representative - The designated representative of the OWNER. The Owner's Representative will be identified at the pre-construction conference.

1.33 Partial Occupancy or Use - Use by OWNER of a substantially completed part of the Work for the purpose for which it is intended (or a related purpose) prior to Substantial Completion of all the Work, provided OWNER and CONTRACTOR have accepted in writing the responsibilities assigned to each of them for payments, retainage if any, security, maintenance, utilities, corrective work, insurance and warranties.

1.34 Project - The subject of the Work and its intended result.

1.35 Project Manual - That portion of the Contract Documents which may include the following: introductory information; bidding requirements, Contract forms and General and Supplemental General Conditions; General Requirements; Specifications; Drawings; MBE/WBE or DBE Procurement Program Package; Project Safety Manual; and Addenda.

1.36 Resident Project Representative - The authorized representative of E/A who may be assigned to the site or any part thereof.

1.37 Shop Drawings - All drawings, diagrams, illustrations, schedules and other data or information which are specifically prepared or assembled by or for CONTRACTOR and submitted by CONTRACTOR as required by the Contract Documents.

1.38 Specifications - Those portions of the Contract Documents consisting of written technical descriptions as applied to the Work, which set forth to CONTRACTOR, in detail, the requirements which must be met by all materials, equipment, construction systems, standards, workmanship, equipment and services in order to render a completed and useful project.

1.39 Solicitation - Solicitation means, as applicable, an Invitation for Bid or a Request for Proposal.

1.40 Substantial Completion - The stage in the progress of the Work when the Work, or designated portion thereof, is sufficiently complete in accordance with the Contract Documents so OWNER can occupy or utilize the Work for its intended use, as evidenced by a Certificate of Substantial Completion approved by OWNER.

1.41 Subcontractor - An individual, firm, corporation, or other business entity having a direct contract with CONTRACTOR for the performance of a portion of the Work under the Contract.

1.42 Sub-Subcontractor - A person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the work.

1.43 Superintendent - The representative of CONTRACTOR authorized in writing to receive and fulfill instructions from the Owner's Representative, and who shall supervise and direct construction of the Work.

1.44 Supplemental General Conditions - The part of the Contract Documents which amends or supplements the General Conditions. All General Conditions which are not so amended or supplemented remain in full force and effect.

1.45 Supplier - An individual or entity having a direct contract with CONTRACTOR or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by CONTRACTOR or any Subcontractor.

1.46 Time Extension Request - An approved request for time extension on a form acceptable to OWNER.

1.47 Work - The entire completed construction, or the various separately identifiable parts thereof, required to be furnished under the Contract Documents.

1.48 Working Day - Any day of the week, not including Saturdays, Sundays, or Legal Holidays in which conditions under the CONTRACTOR's control will permit work for a continuous period of not less than seven (7) hours between 7:00 a.m. and 6:00 p.m. If other contract documents reduce the continuous period available for work to less than seven (7) hours, those reduced hours shall be considered a Working Day. Upon agreement with Owner's Representative, work on Saturdays, Sundays, and/or Legal Holidays may be allowed and will be considered a Working Day.

1.49 Working Hours

1.49.1 Working Day Contract: All Work shall be done between 7:00 a.m. and 6:00 p.m. unless otherwise authorized by Owner's Representative. However, emergency work may be done without prior permission as indicated in paragraph 6.11.5. If night Work is authorized and conditions under CONTRACTOR's control will permit Work for a continuous period of not less than seven (7) hours between 12:00 a.m. and 11:59 p.m. it will be considered a Working Day. Night Work may be revoked at any time by OWNER if CONTRACTOR fails to maintain adequate equipment and supervision for the prosecution and control of the night Work.

1.49.2 Calendar Day Contract: All Work shall be done between 7:00 a.m. and 6:00 p.m. unless authorized by Owner’s Representative. However, emergency work may be done without prior permission as indicated in paragraph 6.11.5. Night Work may be revoked at any time by OWNER if CONTRACTOR fails to maintain adequate equipment and supervision for the prosecution and control of the night Work.

1.50 Written Notice - Written communication between OWNER and CONTRACTOR. Written Notice shall be deemed to have been duly served if delivered in person to Owner's Representative or CONTRACTOR's duly authorized representative, or if delivered at or sent by registered or certified mail to the attention of Owner's Representative or CONTRACTOR's duly authorized representative at the last business address known to the party giving notice.

ARTICLE 2 - PRELIMINARY MATTERS

2.1 Delivery of Agreement, Bonds, Insurance, etc.: Within five (5) Working Days after written notification of award of Contract, CONTRACTOR shall deliver to OWNER signed Agreement, Bond(s), Insurance Certificate(s) and other documentation required for execution of Contract.

2.2 Copies of Documents: OWNER shall furnish to CONTRACTOR (1) copy of the executed Project Manual, one (1) set of Drawings and one (1) copy of the Contract Documents in .pdf format. Additional copies will be furnished, upon request, at the cost specified in the Supplemental General Conditions."

2.3 Commencement of Contract Times; Notice to Proceed: The Contract Time(s) will begin to run on the day indicated in the Notice to Proceed. Notice to Proceed will be given at any time within sixty (60) calendar days after the Execution Date of the Agreement, unless extended by written agreement of the parties.

2.4 Before Starting Construction:

2.4.1 No Work shall be done at the site prior to the preconstruction conference without OWNER's approval. Before undertaking each part of the Work, CONTRACTOR shall carefully study the Contract Documents to check and verify pertinent figures shown thereon compare accurately to all applicable field measurements. CONTRACTOR shall promptly report in writing to Owner's Representative any conflict, error, ambiguity or discrepancy which CONTRACTOR may discover and shall obtain a written interpretation or clarification from Owner's Representative before proceeding with any Work affected thereby. CONTRACTOR shall be liable to OWNER for failure to report any conflict, error, ambiguity or discrepancy in the Contract Documents of which CONTRACTOR knew or reasonably should have known.

2.4.2 It is mutually agreed between CONTRACTOR and OWNER that successful completion of the Work within the Contract completion date is of primary importance. Therefore, the CONTRACTOR hereby agrees to submit to the Owner's Representative for review and approval, or acceptance, as appropriate, all information requested within this section, including a Baseline Schedule, no later than five working days prior to the preconstruction conference. The Owner's Representative will schedule the preconstruction conference upon the timely submittal of the required documents, unless time is extended by written mutual agreement. CONTRACTOR will submit the following:

.1 A proposed Baseline Schedule developed using Microsoft Project software, unless otherwise approved by Owner's Representative ("Baseline Schedule") to confirm that all Work will be completed within the Contract time. The Baseline Schedule must (i) indicate the times (number of days or dates) for starting and completing the various stages of the Work, including any Milestones specified in the Contract Documents, (ii) identify the Critical Path for completing the Work, (iii) identify when all Subcontractors will be utilized, and (iv) take into consideration any limitations on Working Hours, including baseline Rain Days on Calendar Day Contracts, and (v) be prepared accordance with Section 01310, Schedules and Reports, if applicable; otherwise in accordance with Section 01300, Submittals. This Baseline Schedule, a copy of which shall be made available at the job site(s), must contain sufficient detail to indicate that the CONTRACTOR has properly identified required Work elements and tasks, has provided for a sufficient and proper workforce and integration of Subcontractors, has provided sufficient

resources and has considered the proper sequencing of the Work required to result in a successful Project that can be completed within the Contract time;

.2 An organizational chart showing the principals and management personnel who will be involved with the Work, including each one's responsibilities for the Work;

.3 To the extent not set forth in the Section 00400 Statement of Contractor's Experience, a complete listing of the CONTRACTOR's employees proposed for the Work. List each one by name and job title, and show length of employment with CONTRACTOR;

.4 To the extent not set forth in the Section 00410 Statement of Bidder's Safety Experience, a discussion and confirmation of the CONTRACTOR's commitment to safety by providing a copy of its employee's safety handbook and the safety records for the past three years of CONTRACTOR's proposed project manager and Superintendent;

.5 A preliminary schedule of Shop Drawing and sample submittals;

.6 A preliminary schedule of values for all of the Work, subdivided into component parts in sufficient detail to serve as the basis for progress payments during construction. Such prices will be deemed to include an appropriate amount of overhead and profit applicable to each item of Work;

.7 To the extent not set forth in the Section 00400 Statement of Contractor's Experience, a letter designating CONTRACTOR's Superintendent and project manager, and a confirmation of past project experience for the CONTRACTOR's Superintendent and project manager specifically intended for the Work;

.8 A letter from CONTRACTOR and Subcontractor(s) listing salaried specialists. A salaried specialist is anyone except an hourly worker whose wage rate is governed by Section 00830 of this agreement;

.9 A letter designating the project's Safety Representative along with a copy of their Department of Labor-issued OSHA card proving completion of the OSHA 30-hour Construction Safety and Health training class in the OSHA Outreach Training Program;

.10 If applicable, an excavation safety system plan;

.11 If applicable, a plan illustrating proposed locations of temporary facilities;

.12 A completed Non-Use of Asbestos Affidavit (Prior to Construction);

.13 A letter designating the Texas Registered Professional Land Surveyor for layout of the Work, if the Work requires the services of a surveyor; and

.14 Copies of the Department of Labor-issued OSHA cards proving completion of the OSHA 10-hour Construction Safety and Health training class in the OSHA Outreach Training Program for each worker (defined as a person covered by a prevailing wage determination) that will initially be on site. Note that workers must possess other OSHA-required training as the work dictates in accordance with the OSHA Act; and specifically, the contractor must meet the required provisions in 509S Excavation Safety Systems required prior to commencing excavation;

.15 A certificate of worker's compensation insurance coverage for all persons providing services on the Project (refer to 5.2.1.3 in Section 00700 for definition of persons providing services on the Project);

.16 A Construction Equipment Emissions Reduction Plan.

2.4.3 Neither the acceptance nor the approval of any of the submittals required in paragraph 2.4.2, above, will constitute the adoption, affirmation, or direction of the CONTRACTOR'S means and methods.

2.5 Preconstruction Conference: Prior to commencement of Work at the site, CONTRACTOR must attend a preconstruction conference with Owner's Representative and others, as set forth in Division 1. Additionally, prior to commencement of work, the CONTRACTOR shall host a preconstruction conference for the Subcontractors identified on the originally approved compliance plan, Owner's Representative and others, as set forth in Division 1. The CONTRACTOR shall notify all Subcontractors five (5) working days prior to the preconstruction conference. If the CONTRACTOR has included Subcontractors in the initial preconstruction conference, the additional Subcontractor preconstruction conference will not be required.

2.6 Initially Acceptable Schedules: Unless otherwise provided in the Contract Documents, CONTRACTOR shall obtain approval of Owner's Representative on the Baseline Schedule submitted in accordance with paragraph 2.4.2.1 and Division 1 before the first progress payment will be made to CONTRACTOR. The Baseline Schedule must provide for an orderly progression of the designated portion of the Work to completion within any specified Milestones and Contract Times. Acceptance of the schedule by Owner's Representative will neither impose on Owner's Representative responsibility or liability for the sequencing, scheduling or progress of the Work nor interfere with or relieve CONTRACTOR from CONTRACTOR's full responsibility for such Work. CONTRACTOR's schedule of Shop Drawings and sample submissions must provide an acceptable basis for reviewing and processing the required submittals. CONTRACTOR's schedule of values must conform to the requirements set forth in Division 1.

ARTICLE 3 - CONTRACT DOCUMENTS: INTENT, AMENDING, REUSE

3.1 Intent:

3.1.1 The intent of the Contract Documents is to include all information necessary for the proper execution and timely completion of the Work by CONTRACTOR. The CONTRACTOR will execute the Work described in and reasonably inferable from the Contract Documents as necessary to produce the results indicated by the Contract Documents. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all. In cases of disagreement, the following order of precedence shall generally govern (top item receiving priority of interpretation):

Signed Agreement
Addendum to the Contract Documents, including approved changes
Supplemental General Conditions
General Conditions
Other Bidding Requirements and Contract Forms
Special Provisions to the Standard Technical Specifications
Special Specifications
Standard Technical Specifications

Drawings (figured dimensions shall govern over scaled dimensions)
Project Safety Manual (if applicable),

with the understanding that a common sense approach will be utilized as necessary so that the Contract Documents produce the intended response.

3.1.2 Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

3.2 **Reporting and Resolving Discrepancies:** If, during the performance of the Work, CONTRACTOR discovers any conflict, error, ambiguity or discrepancy within the Contract Documents or between the Contract Documents and any provisions of any such law or regulation applicable to the performance of the Work or of any such standard, specification, manual or code or instructions of any Supplier, CONTRACTOR shall report it to Owner's Representative in writing at once, and CONTRACTOR shall not proceed with the Work affected thereby until an amendment or supplement to the Contract Documents has been issued by one of the methods indicated in paragraph 3.3.1 or 3.3.2. CONTRACTOR shall be liable to OWNER for failure to report any such conflict, error, ambiguity or discrepancy of which CONTRACTOR knew or reasonably should have known.

3.3 **Modifying and Supplementing Contract Documents:**

3.3.1 The Contract Documents may be modified to provide for additions, deletions, and revisions in the Work or to modify the terms and conditions by change order or contract amendment.

3.3.2 In addition, the requirements of the Contract Documents may be supplemented, and minor variations and deviations in the Work may be authorized, in one or more of the following ways:

.1 Field Order.

.2 Review of a Shop Drawing or sample.

.3 Written interpretation or clarification.

3.4 Reuse of Documents Prohibited: CONTRACTOR and any Subcontractor or Supplier or other person or organization performing or furnishing any of the Work under a direct or indirect contract with OWNER: (i) shall not have or acquire any title to or ownership rights in any of the Drawings, Specifications or other documents (or copies of any thereof) prepared by or bearing the seal of E/A or E/A's consultant, and (ii) shall not reuse any of such Drawings, Specifications, other documents or copies on extensions of the Project or any other project without written consent of OWNER and E/A.

3.5 In the event of the breach by the OWNER or CONTRACTOR of any of its obligations under the Contract, so as to support a claim by the other party, the provisions of this Contract will be equitably construed to allow the resolution of such a claim and all of the other provisions of this Contract shall continue in full force and effect as to the rights, responsibilities, and remedies of the OWNER and CONTRACTOR.

ARTICLE 4 - AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; REFERENCE POINTS

4.1 **Availability of Lands:** The OWNER will provide access to all land and interests in land required for the Work and will notify CONTRACTOR of any restrictions in such access. CONTRACTOR may make a claim if OWNER fails to provide timely access to the Work.

CONTRACTOR must obtain any additional temporary construction facilities, stockpiling or storage sites not otherwise provided.

4.2 Subsurface and Physical Conditions:

4.2.1 CONTRACTOR specifically represents that it has carefully examined the plans, the geotechnical report, if any, and the site of the proposed Work and is thoroughly familiar with all of the conditions surrounding construction of the Project, having had the opportunity to conduct any and all additional inquiry, tests and investigation that he/she deems necessary and proper. CONTRACTOR acknowledges the receipt of the geotechnical report, if any, and agrees that the report, while it is an accurate record of the geotechnical conditions at the boring locations, is not a guarantee of specific site conditions which may vary between boring locations.

4.2.2 CONTRACTOR must notify OWNER in writing as soon as reasonably possible, but no later than three (3) calendar days, if unforeseen conditions are encountered at the site which are (i) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (ii) unknown physical conditions of an unusual nature, that differ materially from those normally encountered in the type of work being performed under this Contract. CONTRACTOR may not disturb the conditions until OWNER conducts an investigation. Owner's Representative and E/A will promptly investigate such conditions with E/A. If it is determined that such conditions differ materially and cause an increase or decrease in the CONTRACTOR's cost of or time required for performance of any part of the Work, Owner’s Representative will recommend an equitable adjustment in the Contract Amount or Contract Time, or both. If it is determined that such conditions are not materially different from those indicated in the Contract Documents, Owner’s Representative will notify CONTRACTOR in writing of such findings and the Contract will not be adjusted. CONTRACTOR may dispute such a determination in accordance with Article 16.

4.2.3 Notwithstanding any other provision of this Contract, CONTRACTOR is solely responsible for the location and protection of any and all public utility lines and utility customer service lines in the Work area. "Public utility lines" means the utility distribution and supply system, and "utility customer service lines" means the utility lines connecting customers to the utility distribution and collection system. Generally, existing utility customer service line connections are not shown on the Drawings. CONTRACTOR shall notify "One Call" and exercise due care to locate, mark, uncover and otherwise protect all such lines in the construction zone and any of CONTRACTOR's work or storage areas. CONTRACTOR's responsibility for the location and protection of utilities is primary and nondelegable. CONTRACTOR shall indemnify or reimburse such expenses or costs (including fines that may be levied against OWNER) that may result from unauthorized or accidental damage to all public lines and utility customer service lines in the work area. OWNER reserves the right to repair any damage CONTRACTOR causes to such utilities at CONTRACTOR's expense. If a public line and/or customer service line is damaged by CONTRACTOR, CONTRACTOR shall give verbal notice within one (1) hour and written notice within twenty-four (24) hours to the Owner’s Representative.

4.2.4 CONTRACTOR shall take reasonable precaution to avoid disturbing primitive records and antiquities of archaeological, paleontological or historical significance. No objects of this nature shall be disturbed without written permission of OWNER and Texas Historical Commission. When such objects are uncovered unexpectedly,

CONTRACTOR shall stop all Work in close proximity and notify Owner's Representative and Texas Historical Commission of their presence and shall not disturb them until written permission and permit to do so is granted. All primitive rights and antiquities uncovered on OWNER's property shall remain property of State of Texas, Texas Historical Commission conforming to Texas Natural Resources Code. If it is determined by OWNER, in consultation with Texas Historical Commission, that exploration or excavation of primitive records or antiquities on Project site is necessary to avoid loss, CONTRACTOR shall cooperate in salvage work attendant to preservation. If the Work stoppage or salvage work causes an increase in CONTRACTOR's cost of, or time required for, performance of the Work, the Contract Amount and/or Contract Time will be equitably adjusted.

4.3 Reference Points: Unless otherwise specified, all control lines and bench marks suitable for use in layout will be furnished by OWNER. Lay out of the Work shall be performed in accordance with Division 1. Controls, bench marks and property boundary markers shall be carefully preserved by CONTRACTOR by use of flags, staffs or other visible devices and in case of destruction or removal by CONTRACTOR or its employees, such controls and bench marks shall be replaced by a Registered Professional Land Surveyor at CONTRACTOR's expense. City of Austin survey monuments damaged by CONTRACTOR will be reestablished by OWNER at CONTRACTOR's expense.

4.4 Hazardous Materials:

4.4.1 To the extent provided by applicable law, OWNER shall be responsible for any hazardous material uncovered or revealed at the site which was not shown, indicated or identified in the Contract Documents to be within the scope of the Work and which may present a substantial danger to persons or property exposed thereto in connection with the Work at the site. CONTRACTOR shall immediately notify Owner's Representative of any suspected hazardous materials encountered before or during performance of the Work and shall take all necessary precautions to avoid further disturbance of the materials.

4.4.2 CONTRACTOR shall be responsible for any hazardous materials brought to the site by CONTRACTOR, Subcontractor, Suppliers or anyone else for whom CONTRACTOR is responsible.

4.4.3 No asbestos-containing materials shall be incorporated into the Work or brought on Project site without prior approval of OWNER. The CONTRACTOR shall not knowingly use, specify, request or approve for use any asbestos containing materials or lead-based paint without the OWNER'S written approval. When a specific product is specified, the CONTRACTOR shall endeavor to verify that the product does not include asbestos containing material.

4.4.4 Refer to Division 1 for hazardous material definitions and procedures.

.1 Unless otherwise expressly provided in the Contract Documents to be part of the Work, CONTRACTOR is not responsible for any unexpected Hazardous Materials encountered at the site. Upon encountering any Hazardous Conditions, CONTRACTOR must stop Work immediately in the affected area and duly notify OWNER and, if required by applicable law or regulations, all government or quasi-government entities with jurisdiction over the Project or site.

.2 Upon receiving notice of the presence of suspected Hazardous Materials, OWNER shall take the necessary measures required to ensure that the Hazardous Materials are remediated or rendered harmless. Such necessary measures shall include OWNER retaining qualified independent experts to (i)

ascertain whether Hazardous Materials have actually been encountered, and, if they have been encountered, (ii) prescribe the remedial measures that OWNER must take either to remove the Hazardous Materials or render the Hazardous Materials harmless.

.3 CONTRACTOR shall be obligated to resume Work at the affected area of the Project only after OWNER's Representative provides written certification that (i) the Hazardous Materials have been removed or rendered harmless and (ii) all necessary approvals have been obtained from all government and quasi-government entities having jurisdiction over the Project or site. The CONTRACTOR shall be responsible for continuing the Work in the unaffected portion of the Project and site.

.4 CONTRACTOR will be entitled, in accordance with these General Conditions, to an adjustment in its Contract Amount and/or Contract Time(s) to the extent CONTRACTOR's cost and/or time of performance have been adversely impacted by the presence of Hazardous Materials.

.5 Notwithstanding the preceding provisions of this Section 4.1, OWNER is not responsible for Hazardous Materials introduced to the Site by CONTRACTOR, Subcontractors or anyone for whose acts they may be liable. CONTRACTOR shall indemnify, defend and hold harmless OWNER and OWNER's officers, directors, employees and agents from and against all claims, losses, damages, liabilities and expenses, including attorneys' fees and expenses, arising out of or resulting from those hazardous materials introduced to the site by CONTRACTOR, Subcontractors or anyone for whose acts they may be liable.

4.4.5 CONTRACTOR shall be responsible for use, storage and remediation of any hazardous materials brought to the Site by CONTRACTOR, Subcontractors, Suppliers or anyone else for whom CONTRACTOR is responsible.

ARTICLE 5 - BONDS AND INSURANCE

5.1 Surety and Insurance Companies: All bonds and insurance required by the Contract Documents shall be obtained from solvent surety or insurance companies that are duly licensed by the State of Texas and authorized to issue bonds or insurance policies for the limits and coverages required by the Contract Documents. The bonds shall be in a form acceptable to OWNER and shall be issued by a surety which complies with the requirements of Texas Insurance Code, Title 12, Chapter 3503. The surety must obtain reinsurance for any portion of the risk that exceeds 10% of the surety's capital and surplus. For bonds exceeding $100,000, the surety must also hold a certificate of authority from the U.S. Secretary of the Treasury or have obtained reinsurance for any liability in excess of $1,000,000 from a reinsurer that is authorized as a reinsurer in Texas or holds a certificate of authority from the U.S. Secretary of the Treasury. In the event that the proposed surety for a contract award in excess of $100,000 does not hold a certificate of authority from the U.S. Secretary of the Treasury and/or its proposed reinsurer does not hold a certificate of authority from the U.S. Secretary of the Treasury, the OWNER may require additional financial solvency information from the Bidder/Contractor and the proposed surety company and/or reinsurer as part of the 00400 Statement of Bidders Experience and determination of bidder responsibility in the award of the Contract.

5.2 Workers' Compensation Insurance Coverage:

5.2.1 Definitions:

.1 Certificate of coverage ("certificate") - A copy of a certificate of insurance, a certificate of authority to self-insure issued by the commission, or a coverage agreement (DWC-81, DCW-82, DCW-83, or DCW84), showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on the Project, for the duration of the Project.

.2 Duration of the Project - includes the time from the beginning of the Work on the Project until the CONTRACTOR's/ person's Work on the Project has been completed and accepted by OWNER.

.3 Persons providing services on the Project ("subcontractor" in Texas Labor Code, Section 406.096) - includes all persons or entities performing all or part of the services the CONTRACTOR has undertaken to perform on the Project, regardless of whether that person contracted directly with the CONTRACTOR and regardless of whether that person has employees. This includes, without limitation, independent contractors, Subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the Project. "Services" include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the Project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

5.2.2 CONTRACTOR shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of the CONTRACTOR providing services on the Project, for the duration of the Project.

5.2.3 CONTRACTOR must provide a certificate of coverage to OWNER prior to being awarded the Contract.

5.2.4 If the coverage period shown on the CONTRACTOR's current certificate of coverage ends during the duration of the Project, the CONTRACTOR must, prior to the end of the coverage period, file a new certificate of coverage with OWNER showing that coverage has been extended.

5.2.5 CONTRACTOR shall obtain from each person providing services on the Project, and provide to OWNER:

.1 A certificate of coverage, prior to that person beginning Work on the Project, so OWNER will have on file certificates of coverage showing coverage for all persons providing services on the Project; and

.2 No later than seven (7) days after receipt by CONTRACTOR, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the Project.

5.2.6 CONTRACTOR shall retain all required certificates of coverage for the duration of the Project and for one (1) year thereafter.

5.2.7 CONTRACTOR shall notify OWNER in writing by certified mail or personal delivery, within ten (10) days after CONTRACTOR knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the Project.

5.2.8 CONTRACTOR shall post on each Project site a notice, in the text, form and manner prescribed by the Texas Workers' Compensation Commission, informing all persons providing services on the Project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.

5.2.9 CONTRACTOR shall contractually require each person with whom it contracts to provide services on a Project, to:

.1 Provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all of its employees providing services on the Project, for the duration of the Project;

.2 Provide to CONTRACTOR, prior to that person beginning Work on the Project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the Project, for the duration of the Project;

.3 Provide CONTRACTOR, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the Project;

.4 Obtain from each other person with whom it contracts, and provide to CONTRACTOR: a) a certificate of coverage, prior to the other person beginning Work on the Project; and b) a new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the Project;

.5 Retain all required certificates of coverage on file for the duration of the Project and for one (1) year thereafter;

.6 Notify OWNER in writing by certified mail or personal delivery, within ten (10) days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the Project; and

.7 Contractually require each person with whom it contracts, to perform as required by paragraphs 5.2.9.1 - 5.2.9.7, with the certificates of coverage to be provided to the person for whom they are providing services.

5.2.10 By signing this Contract or providing or causing to be provided a certificate of coverage, CONTRACTOR is representing to OWNER that all employees of the CONTRACTOR who will provide services on the Project will be covered by workers' compensation coverage for the duration of the Project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the Texas Worker’s Compensation Commission's Division of Self- Insurance Regulation. Providing false or misleading information may subject CONTRACTOR to administrative penalties, criminal penalties, civil penalties, or other civil actions.

5.2.11 CONTRACTOR's failure to comply with any of these provisions is a breach of Contract by CONTRACTOR which entitles OWNER to declare the Contract void if CONTRACTOR does not remedy the breach within ten (10) days after receipt of notice of breach from OWNER.

5.3 Other Bond and Insurance Requirements: For additional insurance requirements, refer to the Supplemental General Conditions.

5.4 Bonds:

5.4.1 General.

.1 Bonds, when required, shall be executed on forms furnished by or acceptable to OWNER. All bonds signed by an agent must be accompanied by a certified copy of such agent's authority to act.

.2 If the surety on any bond furnished by CONTRACTOR is declared bankrupt or becomes insolvent or its right to do business is terminated in the State of Texas or it ceases to meet the requirements of the preceding paragraph, CONTRACTOR shall within ten (10) days thereafter substitute another bond and surety, both of which must be acceptable to OWNER.

.3 When Performance Bonds and/or Payment Bonds are required, each shall be issued in an amount of one hundred percent (100%) of the Contract Amount as security for the faithful performance and/or payment of all CONTRACTOR's obligations under the Contract Documents. Performance Bonds and Payment Bonds shall be issued by a solvent surety company authorized to do business in the State of Texas, and shall meet any other requirements established by law or by OWNER pursuant to applicable law. Any surety duly authorized to do business in Texas may write Performance and Payment Bonds on a project without reinsurance to the limit of ten percent (10%) of its capital and surplus. Such a surety must reinsure any obligations over ten percent (10%).

5.4.2 Performance Bond.

.1 If the Contract Amount exceeds $100,000, CONTRACTOR shall furnish OWNER with a Performance Bond in the form set out in Section 00610.

.2 If the Contract Amount exceeds $25,000 but is less than or equal to $100,000, CONTRACTOR shall furnish OWNER with a Performance Bond in the form set out in Section 00610, unless the original Contract Time is 60 Calendar Days/40 Working Days or less, in which case CONTRACTOR can agree to the following terms and conditions for payment in lieu of providing a Performance Bond: no moneys will be paid to CONTRACTOR until completion and acceptance of the Work by OWNER; CONTRACTOR shall be entitled to receive 95% of the Contract Amount following Final Completion, and the remaining 5% of the Contract Amount following the one (1) year warranty period.

.3 If the Contract Amount is less than or equal to $25,000, CONTRACTOR will not be required to furnish a Performance Bond; provided that no moneys will be paid to CONTRACTOR until completion and acceptance of the Work by OWNER under the following terms and conditions: CONTRACTOR shall be entitled to receive 95% of the Contract Amount following Final Completion, and the remaining 5% of the Contract Amount following the one (1) year warranty period.

.4 If a Performance Bond is required to be furnished, it shall extend for the one (1) year warranty period.

5.4.3 Payment Bond.

.1 If the Contract Amount exceeds $50,000, CONTRACTOR shall furnish OWNER with a Payment Bond in the form set out in Section 00620.

.2 If the Contract Amount is less than or equal to $50,000, CONTRACTOR will not be required to furnish a Payment Bond; provided that no moneys will be paid to CONTRACTOR until completion and acceptance of the Work by OWNER under the terms and conditions specified in paragraph 5.4.2.3.

5.4.4 **Maintenance Bond:** If the Contract Documents contemplate a period of maintenance beyond the one (1) year contractual warranty period, OWNER agrees that any bond to be required for such maintenance work will be in the amount of the maintenance work during any extended maintenance period.

ARTICLE 6 - CONTRACTOR'S RESPONSIBILITIES

6.1 Supervision and Superintendence:

6.1.1 CONTRACTOR shall supervise, inspect and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. CONTRACTOR shall be solely responsible for the means, methods, techniques, sequences and procedures of construction. CONTRACTOR shall be responsible to see that the completed Work complies accurately with the Contract Documents.

6.1.2 CONTRACTOR shall have a competent, qualified Superintendent on the Work at all times that work is in progress. To be qualified, at a minimum, the Superintendent must be effective at (a) communicating both verbally and in writing with the OWNER's representative; (b) receiving and fulfilling instructions from the Owner's Representative; (c) supervising and directing the construction of the Work; (d) reading and interpreting the plans and specifications; (e) writing, preparing and submitting necessary paperwork; and (f) understanding work sequencing and scheduling. The Superintendent will be CONTRACTOR's representative on the Work and shall have the authority to act on the behalf of CONTRACTOR. All communications given to the Superintendent shall be as binding as if given to CONTRACTOR. Either CONTRACTOR or the Superintendent shall provide a cellular telephone number and an emergency and home telephone number at which one or the other may be reached if necessary when work is not in progress. The Superintendent must be an employee of the CONTRACTOR, unless such requirement is waived in writing by the Owner's Representative. If the CONTRACTOR proposes a management structure with a Project Manager supervising, directing, and managing construction of the work in addition to or in substitution of a Superintendent, the requirements of these Construction Documents with respect to the Superintendent shall likewise apply to any such Project Manager.

.1 CONTRACTOR shall present the resume of the proposed Superintendent to the Owner's Representative showing evidence of experience and successful superintendence and direction of work of a similar scale and complexity. If, in the opinion of the Owner's Representative, the proposed Superintendent does not indicate sufficient experience in line with the Work, he/she will not be allowed to be the designated Superintendent for the Work.

.2 The Superintendent shall not be replaced without Written Notice to Owner's Representative. If CONTRACTOR deems it necessary to replace the Superintendent, CONTRACTOR shall provide the necessary information for approval, as stated above, on the proposed new Superintendent.

.3 A qualified substitute Superintendent may be designated in the event that the designated Superintendent is temporarily away from the Work, but not to exceed a time limit acceptable to the Owner's Representative. CONTRACTOR shall replace the Superintendent upon OWNER's request in the event the Superintendent is unable to perform to OWNER's satisfaction.

6.2 Labor, Materials and Equipment:

6.2.1 CONTRACTOR shall maintain a work force adequate to accomplish the Work within the Contract Time. CONTRACTOR agrees to employ only orderly and competent workers, skillful in performance of the type of Work required under this Contract. CONTRACTOR, Subcontractors, Sub-subcontractors, and their employees may not use or possess any alcoholic or other intoxicating beverages, illegal drugs or controlled substances while on the job or on OWNER's property, nor may such workers be intoxicated, or under the influence of alcohol or drugs, on the job. Subject to the applicable provisions of Texas law, CONTRACTOR, Subcontractors, Sub-subcontractors, and their employees may not use or possess any firearms or other weapons while on the job or on OWNER'S property. If OWNER or Owner's Representative notifies CONTRACTOR that any worker or representative of Contractor is incompetent, disorderly, abusive, or disobedient, has knowingly or repeatedly violated safety regulations, has possessed any firearms in contravention of the applicable provisions of Texas law, or has possessed or was under the influence of alcohol or drugs on the job, CONTRACTOR shall immediately remove such worker or representative, including an officer or owner of CONTRACTOR, from performing Contract Work, and may not employ such worker or representative again on Contract Work without OWNER's prior written consent. CONTRACTOR shall at all times maintain good discipline and order on or off the site in all matters pertaining to the Project. Workers on Project shall be paid not less than wage rates, including fringe benefits, as published by the Department of Labor (DOL) for Building Construction and Heavy and Highway Trades "AS APPLICABLE" and/or the minimum wage required by City of Austin Ordinance No. 20160324-015, whichever is higher. The Total Minimum Wage required can be met using any combination of cash and non-cash qualified fringe benefits provided the cash component meets or exceeds the minimum wage required.

6.2.2 Unless otherwise specified in Division 1, CONTRACTOR shall provide and pay for all materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities and all other facilities and incidentals necessary for the furnishing, performance, testing, start-up and completion of the Work.

6.2.3 All materials and equipment shall be of good quality and new (including new products made of recycled materials, pursuant to Section 361.426 of the Texas Health & Safety Code), except as otherwise provided in the Contract Documents. If required by Owner's Representative, CONTRACTOR shall furnish satisfactory evidence (reports of required tests, manufacturer's certificates of compliance with material requirements, mill reports, etc.) as to the kind and quality of materials and equipment. All materials and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned in accordance with instructions of the applicable Supplier, except as otherwise provided in the Contract Documents.

6.2.4 Substitutes and "Approved Equal" Items:

.1 Whenever an item of material or equipment is specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular Supplier, the specification or description is intended to establish the

type, function and quality required. Unless the specification or description contains words reading that no like, equivalent or "approved equal" item or no substitution is permitted, other items of material or equipment of other Suppliers may be submitted by CONTRACTOR, at CONTRACTOR'S sole risk, including disruptions to the Critical Path of the Progress Schedule, to E/A through Owner's Representative under the following circumstances:

.1.1 "Approved Equal": If in E/A's sole discretion an item of material or equipment proposed by CONTRACTOR is functionally equal to that named and sufficiently similar so that no change in related Work will be required, it may be considered by E/A as an "approved equal" item, in which case review of the proposed item may, in E/A's sole discretion, be accomplished without compliance with some or all of the requirements for evaluation of proposed substitute items. CONTRACTOR shall provide E/A with the documentation required for E/A to make its determination.

.1.2 Substitute Items: If in E/A's sole discretion an item of material or equipment proposed by CONTRACTOR does not qualify as an "approved equal" item under subparagraph 6.2.4.1.1, it will be considered a proposed substitute item. CONTRACTOR shall submit sufficient information as provided in Division 1 to allow E/A to determine that the item of material or equipment proposed is essentially equivalent to that named and a substitute therefor.

.2 Substitute Construction Methods and Procedures: If a specific means, method, technique, sequence or procedure of construction is shown or indicated in and expressly required by the Contract Documents, CONTRACTOR may, at CONTRACTOR'S sole risk, including disruptions to the Critical Path of the Progress Schedule, with prior approval of E/A furnish or utilize a substitute means, method, technique, sequence, or procedure of construction. CONTRACTOR shall submit sufficient information to Owner's Representative to allow E/A, in E/A's sole discretion, to determine that the substitute proposed is equivalent to that expressly called for by the Contract Documents. The procedure for review by E/A will be same as that provided for substitute items in Division 1.

.3 E/A's Evaluation: E/A will be allowed a reasonable time within which to evaluate each proposal or submittal made pursuant to subparagraphs 6.2.4.1.1 and 6.2.4.1.2. E/A will be the sole judge of acceptability. No "approved equal" or substitute shall be ordered, installed, or utilized until E/A's review is complete, which will be evidenced by either a Change Order or completion of the Shop Drawing review procedure. OWNER may require CONTRACTOR to furnish at CONTRACTOR's expense a special performance guarantee or other surety bond with respect to any "approved equal" or substitute or for any other delay or disruption to the Critical Path of the Project Schedule attributable to any such substitution. OWNER shall not be responsible for any delay due to review time for any "approved equal" or substitute.

.4 CONTRACTOR's Expense: All data and documentation to be provided by CONTRACTOR in support of any proposed "approved equal" or substitute item will be at CONTRACTOR's expense.

.5 The approval of the E/A will not relieve the CONTRACTOR from primary responsibility and liability for the suitability and performance of any proposed substitute item, method or procedure and will not relieve CONTRACTOR from

its primary responsibility and liability for curing defective Work and performing warranty work, which the CONTRACTOR shall cure and perform, regardless of any claim the CONTRACTOR may choose to advance against the E/A or manufacturer.

6.2.5 CONTRACTOR agrees to assign to OWNER any rights it may have to bring antitrust suits against its Suppliers for overcharges on materials incorporated in the Project growing out of illegal price fixing agreements. CONTRACTOR further agrees to cooperate with OWNER should OWNER wish to prosecute suits against Suppliers for illegal price fixing.

6.3 Progress Schedule: Unless otherwise provided in Division 1, CONTRACTOR shall adhere to the Baseline Schedule established in accordance with paragraph 2.6 as it may be adjusted from time to time as provided below:

6.3.1 CONTRACTOR shall submit to Owner's Representative for review and approval any proposed adjustments in the Progress Schedule that will not change the Contract Times or Milestones on a monthly basis. Any such proposed adjustments must be substantiated with documentation of any changes to the underlying logic of the Progress Schedule. CONTRACTOR's Progress Schedule must show how the CONTRACTOR will consistently advance the progress of the Work in accordance with the Critical Path of the Work and the Contract Time or Milestones. Such adjustments will conform generally to the Progress Schedule then in effect and additionally will comply with any provisions of Division 1 applicable thereto.

6.3.2 Proposed adjustments in the Progress Schedule that will change the Contract Times or Milestones shall be submitted in accordance with the requirements of Article 12. Any such proposed adjustments must be substantiated with documentation of any changes to the underlying logic of the Progress Schedule. Such adjustments may only be made by a Change Order or Time Extension Request in accordance with Article 12.

6.4 Concerning Subcontractors, Suppliers and Others:

6.4.1 Assignment: CONTRACTOR agrees to retain direct control of and give direct attention to the fulfillment of this Contract. CONTRACTOR agrees not to, by Power of Attorney, or otherwise, assign said Contract without the prior written consent of OWNER. In addition, without OWNER'S written consent, the CONTRACTOR will not subcontract the performance of the entire Work or the supervision and direction of the Work.

6.4.2 Award of Subcontracts for Portions of the Work: CONTRACTOR shall not employ any Subcontractor, Supplier or other person or organization, whether initially or as a substitute, against whom OWNER may have reasonable objection. OWNER will communicate such objections by Written Notice. If OWNER requires a change without good cause of any Subcontractor, person or organization previously accepted by OWNER, the Contract Amount shall be increased or decreased by the difference in the cost occasioned by any such change, and appropriate Change Order shall be issued. CONTRACTOR shall not substitute any Subcontractor, person or organization that has been accepted by OWNER, unless the substitute has been accepted in writing by OWNER. No acceptance by OWNER of any Subcontractor, Supplier or other person or organization shall constitute a waiver of any right of OWNER to reject defective Work.

6.4.3 CONTRACTOR shall enter into written agreements with all Subcontractors and Suppliers which specifically binds the Subcontractors or Suppliers to the applicable terms and conditions of the Contract Documents for the benefit of OWNER and E/A.

The OWNER reserves the right to specify that certain requirements shall be adhered to by all Subcontractors and Sub-subcontractors as indicated in other portions of the Contract Documents and these requirements shall be made a part of the agreement between CONTRACTOR and Subcontractor or Supplier. Subject to and in accordance with the above requirements, the CONTRACTOR must provide and will be deemed for all purposes to have provided in its contracts with major Subcontractors or Suppliers on the Project (those contracts of more than $10,000) the following specific provision: alternative dispute resolution (paragraphs 16.2 and 16.3), which shall be mandatory in the event of a subcontractor or supplier claim and a prerequisite for the submission of any derivative claim. The CONTRACTOR's standard subcontract form is subject to the OWNER's review and approval. The OWNER may request and the CONTRACTOR will provide within five (5) working days a copy of any subcontract requested by the OWNER.

6.4.4 CONTRACTOR shall be fully responsible to OWNER for all acts and omissions of the Subcontractors, Suppliers and other persons and organizations performing or furnishing any of the Work under a direct or indirect contract with CONTRACTOR just as CONTRACTOR is responsible for CONTRACTOR's own acts and omissions. Nothing in the Contract Documents shall create for the benefit of any such Subcontractor, Supplier or other person or organization any contractual relationship between OWNER and any such Subcontractor, Supplier or other person or organization, nor shall it create any obligation on the part of OWNER or E/A to pay or to see to the payment of any moneys due any such Subcontractor, Supplier or other person or organization except as may otherwise be required by laws and regulations.

6.4.5 CONTRACTOR shall be solely responsible for efficiently scheduling and coordinating the Work of Subcontractors, Suppliers and other persons and organizations performing or furnishing any of the Work under a direct or indirect contract with CONTRACTOR in order to avoid any delays or inefficiencies in the prosecution of the Work. CONTRACTOR shall require all Subcontractors, Suppliers and such other persons and organizations performing or furnishing any of the Work to communicate with Owner's Representative through CONTRACTOR.

6.4.6 The divisions and sections of the Specifications and the identifications of any Drawings shall not control CONTRACTOR in dividing or delineating the Work to be performed by any specific trade.

6.4.7 CONTRACTOR shall pay each Subcontractor and Supplier their appropriate share of payments made to CONTRACTOR not later than ten (10) Calendar Days of CONTRACTOR's receipt of payment from OWNER. Upon request from Owner, the CONTRACTOR has two (2) Working Days to provide documentation verifying Payment to Subcontractor(s). The CONTRACTOR is required to notify the Subcontractor(s) in writing of rejection of Application for Payment within two (2) Working Days following notification by Owner. Failure of CONTRACTOR to make payments to Subcontractors or for labor, materials or equipment in accordance to this contract, may be cause to reject future Bids by the CONTRACTOR in accordance with Section 00100 9.B.4 and may be cause to reject payment in accordance with 00700 14.4.1.3.

6.4.8 To the extent allowed by Texas law, the OWNER shall be deemed to be a third party beneficiary to each subcontract and may, if OWNER elects, following a termination of the CONTRACTOR, require that the Subcontractor(s) perform all or a portion of unperformed duties and obligations under its subcontract(s) for the benefit of the OWNER, rather than the CONTRACTOR; however, if the OWNER requires any such performance by a Subcontractor for the OWNER's direct benefit, then the OWNER

shall be bound and obligated to pay such Subcontractor the reasonable value for all Work performed by such Subcontractor to the date of the termination of the CONTRACTOR, less previous payments, and for all Work performed thereafter. In the event that the OWNER elects to invoke its right under this section, OWNER will provide notice of such election to the CONTRACTOR and the affected Subcontractor(s).

6.5 Patent Fees and Royalties:

6.5.1 CONTRACTOR shall be responsible at all times for compliance with applicable patents or copyrights encompassing, in whole or in part, any design, device, material, or process utilized, directly or indirectly, in the performance of the Work or the formulation or presentation of its Bid.

6.5.2 CONTRACTOR shall pay all royalties and license fees and shall provide, prior to commencement of Work hereunder and at all times during the performance of same, for lawful use of any design, device, material or process covered by letters, patent or copyright by suitable legal agreement with the patentee, copyright holder, or their duly authorized representative whether or not a particular design, device, material, or process is specified by OWNER.

6.5.3 CONTRACTOR shall defend all suits or claims for infringement of any patent or copyright and shall save OWNER harmless from any loss or liability, direct or indirect, arising with respect to CONTRACTOR's process in the formulation of its Bid or the performance of the Work or otherwise arising in connection therewith. OWNER reserves the right to provide its own defense to any suit or claim of infringement of any patent or copyright in which event CONTRACTOR shall indemnify and save harmless OWNER from all costs and expenses of such defense as well as satisfaction of all judgments entered against OWNER.

6.5.4 OWNER shall have the right to stop the Work and/or terminate this Agreement at any time in the event CONTRACTOR fails to disclose to OWNER that CONTRACTOR's work methodology includes the use of any infringing design, device, material or process.

6.6 Permits, Fees: Unless otherwise provided in the Supplemental General Conditions, CONTRACTOR shall obtain and pay for all construction permits, licenses and fees required for prosecution of the Work.

6.7 Laws and Regulations:

6.7.1 CONTRACTOR shall give all notices and comply with all laws and regulations applicable to furnishing and performing the Work, including arranging for and obtaining any required inspections, tests, approvals or certifications from any public body having jurisdiction over the Work or any part thereof. Except where otherwise expressly required by applicable laws and regulations, neither OWNER nor E/A shall be responsible for monitoring CONTRACTOR's compliance with any laws and regulations.

6.7.2 Maintaining clean water, air and earth or improving thereon shall be regarded as of prime importance. CONTRACTOR shall plan and execute its operations in compliance with all applicable Federal, State and local laws and regulations concerning control and abatement of water pollution and prevention and control of air pollution.

6.7.3 If CONTRACTOR performs any Work knowing or having reason to know that it is contrary to laws or regulations, CONTRACTOR shall bear all claims, costs, losses and damages arising therefrom; however, it shall not be CONTRACTOR's primary responsibility to make certain that the Specifications and Drawings are in accordance

with laws and regulations, but this does not relieve CONTRACTOR of CONTRACTOR's obligations under Article 3.

6.8 Taxes:

6.8.1 CONTRACTOR shall pay only those sales, consumer, use and other similar taxes required to be paid by CONTRACTOR in accordance with the laws and regulations of the State of Texas in the performance of this public works contract.

6.8.2 OWNER is an exempt organization as defined by Chapter 11 of the Property Tax Code of Texas and is thereby exempt from payment of Sales Tax under Chapter 151, Limited Use Sales, Excise and Use Tax, Texas Tax Code, and Article 1066 (C), Local Sales and Use Tax Act, Revised Civil Statutes of Texas.

6.9 Use of Premises:

6.9.1 CONTRACTOR shall confine construction equipment, the storage of materials and equipment and the operations of workers to the site and land and areas identified in and permitted by the Contract Documents and other land and areas permitted by laws and regulations, right-of-way, permits and easements, and shall not unreasonably encumber the premises with construction equipment or other materials or equipment. CONTRACTOR shall assume full responsibility for any damage to any such land or area, or to the owner or occupant thereof or of any adjacent land or areas, resulting from the performance of the Work. Should any claim be made by any such owner or occupant because of or in connection with the performance of the Work, CONTRACTOR shall promptly settle with such other party by negotiation or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law. CONTRACTOR shall indemnify, defend and hold harmless OWNER, E/A, E/A'S Consultants and anyone directly or indirectly employed by any of them from and against all claims, costs, losses and damages (including court costs and reasonable attorney’s fees) arising out of or resulting from any claim or action, legal or equitable, brought by any such owner or occupant against OWNER, E/A or any other party indemnified hereunder to the extent caused by or based upon performance of the work or failure to perform the Work.

6.9.2 During the progress of the Work and on a daily basis, CONTRACTOR shall keep the premises free from accumulations of waste materials, rubbish and other debris resulting from the Work. At the completion of the Work, CONTRACTOR shall remove all waste materials, rubbish and debris from and about the premises as well as all tools, appliances, construction equipment and machinery and surplus materials. CONTRACTOR shall leave the site clean and ready for occupancy by OWNER at Substantial Completion of the Work. CONTRACTOR shall, at a minimum, restore to original condition all property not designated for alteration by the Contact Documents. If the CONTRACTOR fails to clean up at the completion of the Work, OWNER may do so and the cost thereof will be charged against the CONTRACTOR.

6.9.3 CONTRACTOR shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall CONTRACTOR subject any part of the Work or adjacent property to stresses or pressures that will endanger it.

6.10 Record Documents: CONTRACTOR shall maintain in a safe place at the site, or other location acceptable to OWNER, one (1) record copy of all Drawings, Specifications, Addenda, Change Orders, Change Directives, Field Orders and written interpretations and clarifications (issued pursuant to paragraph 9.5) in good order and annotated to show all changes made during construction. These record documents together with all final samples and all final Shop Drawings will be available to OWNER and E/A for reference during performance of the

Work. Upon Substantial Completion of the Work, these record documents, samples and Shop Drawings shall be promptly delivered to Owner's Representative.

6.11 Safety and Protection:

6.11.1 CONTRACTOR shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. Upon request, and prior to installation of measures, CONTRACTOR shall submit a site security plan for approval by OWNER. By reviewing the plan or making recommendations or comments, OWNER will not assume liability nor will CONTRACTOR be relieved of liability for damage, injury or loss. CONTRACTOR shall take all necessary precautions for the safety of and shall provide the necessary protection to prevent damage, injury or loss to:

.1 all persons on the Work site or who may be affected by the Work;

.2 all the Work and materials and equipment to be incorporated therein, whether in storage on or off the site; and

.3 other property at the site or adjacent thereto, including, but not limited to, trees, shrubs, lawns, walks, pavements, roadways, structures, utilities and underground facilities not designated for removal, relocation or replacement in the course of construction.

6.11.2 CONTRACTOR shall comply with all applicable laws and regulations of any public body having jurisdiction for safety of persons or property or to protect them from damage, injury or loss; and shall erect and maintain all necessary safeguards for such safety and protection. CONTRACTOR shall notify owners of adjacent property and of underground facilities, and utility owners when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation and replacement of their property. All damage, injury or loss to any property referred to in paragraph 6.11.1.2 and 6.11.1.3 caused, directly or indirectly, in whole or in part, by CONTRACTOR, Subcontractor, Supplier or any person or organization directly or indirectly employed by any of them to perform or furnish any of the Work or anyone for whose acts any of them may be liable, shall be remedied by CONTRACTOR (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of OWNER, or E/A, or E/A's consultant or anyone employed by any of them or anyone for whose acts any of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the faults or negligence of CONTRACTOR or any Subcontractor, Supplier or other person or organization directly or indirectly employed by any of them). CONTRACTOR's duties and responsibilities for safety and protection of the Work shall continue until such time as all the Work is completed and Owner's Representative has issued a notice to OWNER and CONTRACTOR in accordance with Article 14 that the Work is acceptable (except as otherwise expressly provided in connection with Substantial Completion). Without limitation, CONTRACTOR shall comply with the following specific provisions:

It shall be the duty and responsibility of CONTRACTOR and all of its subcontractors to be familiar with and comply with 29 USC Section 651, et seq., the Occupational Safety and Health Act of 1970, as amended ("OSHA") and to enforce and comply with all provisions of this Act.

The CONTRACTOR and all of its subcontractors shall comply with all applicable requirements of Subpart P of Part 1926 of 29 C.F.R, OSHA Safety and Health Standards, Texas Health and Safety Code Section 756.023, as amended, and shall submit a unit price for the particular excavation safety systems to be utilized by the Contractor for all excavations which exceed a depth of five feet (5').

Before commencing any excavation which will exceed a depth of five feet (5'), the CONTRACTOR shall provide the Owner with detailed plans and specifications regarding the safety systems to be utilized. Said plans and specifications shall include a certification from a Texas licensed professional engineer indicating full compliance with the OSHA provisions cited above.

6.11.3 Safety Representative: CONTRACTOR shall designate in writing a qualified and experienced safety representative (the "Safety Representative") at the site whose duties and responsibilities shall include safety training; identifying and mitigating hazardous conditions and unsafe work practices; and developing, maintaining and supervising the implementation of safe work practices and safety programs as deemed necessary and appropriate for the Project. The term "Safety Representative" includes any designated Safety Supervisor, Superintendent or Safety Manager. The Safety Representative shall exercise due diligence in the execution of all Project related safety duties. Upon request of OWNER, CONTRACTOR shall provide certifications or other acceptable documentation of the Safety Representative's qualifications. The following requirements will be effective as of September 1, 2010:

.1 The Safety Representative shall present certification of completion of the OSHA 30-hour Construction Industry Training Outreach Program described at: http://www.osha.gov/dte/outreach/construction_generalindustry/construction.html

.2 The Safety Representative shall verify that all construction workers (defined as persons covered by a prevailing wage determination) on the job site, whether employed by the CONTRACTOR or subcontractors, have completed the OSHA 10-hour Construction Industry Training Outreach Program described at: http://www.osha.gov/dte/outreach/construction_generalindustry/construction.html. The Safety Representative must receive a certificate of training completion before allowing a worker on site and shall have all such certificates available for inspection by the OWNER.

.3 The Safety Representative shall ensure that workers, including designated competent persons, have completed all applicable OSHA specific or other training needed to perform their job assignments. Training topics applicable to the scope of the current Project may include, but are not limited to, scaffolds, fall protection, cranes, excavations, electrical safety, tools, concrete and masonry construction, steel erection, operation of motor vehicles and mechanized equipment.

.4 The Safety Representative shall post notice on the site of the Work stating that all workers shall have completed OSHA Construction Industry Training. The Owner may require, and the Safety Representative should consider providing a means of readily identifying workers who have completed the required training to monitor compliance with these requirements.

.5 The Safety Representative shall ensure that all required OSHA and Workers Compensation notices to workers are posted in English and Spanish at one or more conspicuous locations on the work site.

6.11.4 Hazard Communication Programs: CONTRACTOR shall be responsible for coordinating any exchange of material safety data sheets or other hazard communication information required to be made available to or exchanged between or among employers at the site in accordance with laws and regulations.

6.11.5 Emergencies:

.1 In emergencies affecting the safety or protection of persons or the Work at the site or adjacent thereto, CONTRACTOR, without special instruction or authorization from OWNER or E/A, is obligated to act reasonably to prevent threatened damage, injury or loss and to mitigate damage or loss to the Work. CONTRACTOR shall give Owner's Representative telephone notification as soon as reasonably practical and a prompt written notice if CONTRACTOR believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby. If Owner's Representative determines that a change in the Contract Documents is required because of the action taken by CONTRACTOR in response to such an emergency, a Change Directive or Change Order will be issued to document the consequences of such action; otherwise OWNER will not be responsible for CONTRACTOR's emergency action.

.2 Authorized agents of CONTRACTOR shall respond immediately to call-out at any time of any day or night when circumstances warrant the presence on Project site of CONTRACTOR or his agent to protect the Work or adjacent property from damage, restriction or limitation or to take such action or measures pertaining to the Work as may be necessary to provide for the safety of the public. Should CONTRACTOR and/or their agent fail to respond and take action to alleviate such an emergency situation, OWNER may direct other forces to take action as necessary to remedy the emergency condition, and OWNER will deduct any cost of such remedial action from the funds due CONTRACTOR under this Contract.

.3 In the event there is an accident involving injury to any individual or damage to any property on or near the Work, CONTRACTOR shall provide to Owner's Representative verbal notification within one (1) hour and written notification within twenty-four (24) hours of the event and shall be responsible for recording the location of the event and the circumstances surrounding the event through photographs, interviewing witnesses, obtaining medical reports, police accident reports and other documentation that describes the event. Copies of such documentation shall be provided to Owner's Representative, for OWNER's and E/A's records, within forty-eight (48) hours of the event. Contractor shall cooperate with OWNER on any OWNER investigation of any such incident.

6.11.6 Rest Breaks:

.1 Except as provided in subsection 6.11.6.2 below, an employee performing construction activity at a construction site is entitled to a rest break of not less than ten (10) minutes for every four (4) hours worked. No employee may be required to work more than 3.5 hours without a rest break. A rest break means a break from work within working hours, excluding meal breaks, during which an employee may not work. A rest break shall be scheduled as near as possible to the midpoint of the work period.

.2 An employee is not entitled to a rest break under subsection 6.11.6.1 on any day the employee works less than 3.5 hours or spends more than half of his or her work time engaged in non-strenuous labor in a climate controlled environment.

.3 A sign describing the requirements of this Section 6.11.6 in English and Spanish shall be posted by the employer in each establishment subject to the requirement of a rest break in a conspicuous place or places where notices to

employees are customarily posted, in accordance with the OWNER's then current rules for size, content, and location of such signage.

.4 The violation of Ordinance No. 20100729-047, enacted July 29, 2010, which establishes the rest break requirements set forth above, may be enforced with criminal penalties and civil remedies, as set forth in the Ordinance.

6.11.7 If the Contractor fails to carry out the Work in accordance with the Contract Documents so that a safety violation has occurred, the Owner may order the Contractor to stop the Work or any portion thereof, until the cause for such order has been eliminated. However, the right of the Owner to stop the Work under this paragraph shall not give rise to a duty on the part of the Owner to supervise the Contractor's Work or to control the Contractor's means and methods or to exercise this right for the benefit of the Contractor or any other person or entity. All time lost due to Project shut down will be the Contractor's sole responsibility, will be charged against the Contract Time, and the Contractor will be responsible for any and all expenses incurred. This provision is in addition to and supplemental to the applicable provisions of the Project's ROCIP Safety Manual.

6.11.8 Confined Space Program

.1 Contractor acknowledges and agrees that the Owner is temporarily transferring management and control of the site of the Work to the Contractor for the purpose of constructing the Project. The Contractor's responsibilities to manage the Work includes the responsibility to manage the property for purposes of compliance with 29 CFR 1926 subpart AA. To the best of Owner's knowledge and belief, Owner has provided the following information in the plans and specifications and other Contract Documents: (i) the location of each known permit space, (ii) the hazards or potential hazards in each space or the reason it is a permit space; and (iii) any precautions that the Owner or any previous contractor has implemented for the protection of employees in the permit space. This transfer will result in the Contractor being both the host employer and the controlling contractor for this portion of the Work.

6.12 Continuing the Work: CONTRACTOR shall carry on the Work and adhere to the Progress Schedule during all disputes or disagreements with OWNER. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, except as OWNER and CONTRACTOR may otherwise agree in writing.

6.13 CONTRACTOR's General Warranty and Guarantee:

6.13.1 CONTRACTOR warrants and guarantees to OWNER that all Work will conform to the plans and specifications, be performed in a good and workmanlike manner in accordance with the Contract Documents and will not be defective. This warranty will survive the termination or expiration of the Contract. CONTRACTOR's warranty and guarantee hereunder excludes defects or damage caused by:

.1 abuse, modification or improper maintenance or operation by persons other than CONTRACTOR, Subcontractors or Suppliers; or

.2 normal wear and tear under normal usage.

6.13.2 CONTRACTOR's obligation to perform and complete the Work in a good and workmanlike manner in accordance with the Contract Documents shall be absolute. None of the following will constitute an acceptance of Work that is not in accordance

with the Contract Documents or a release of CONTRACTOR's obligation to perform the Work in accordance with the Contract Documents:

.1 observations by Owner's Representative and/or E/A;

.2 recommendation of any progress or final payment by Owner's Representative;

.3 the issuance of a certificate of Substantial Completion or any payment by OWNER to CONTRACTOR under the Contract Documents;

.4 use or occupancy of the Work or any part thereof by OWNER;

.5 any acceptance by OWNER or any failure to do so;

.6 any review of a Shop Drawing or sample submittal;

.7 any inspection, test or approval by others; or

.8 any correction of defective Work by OWNER.

6.14 INDEMNIFICATION:

6.14.1 CONTRACTOR shall defend, indemnify and hold harmless OWNER, E/A, E/A'S Consultants and Sub consultants and their respective officers, directors, partners, employees, agents and other Consultants and any of them (the "INDEMNIFIED PARTIES") from and against all claims, costs, losses and damages (including but not limited to all fees and charges of engineers, architects, attorneys and other professionals and all court or arbitration or other dispute resolution costs) arising out of or resulting from the performance of the Work, provided that any such claim, cost, loss or damage:

.1 Is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the work itself), including the loss of use resulting therefrom, and

.2 Is caused in whole or in part by any negligent act or omission of CONTRACTOR, any Subcontractor, any Supplier, any person or organization directly or indirectly employed by any of them to perform or furnish any of the work or anyone for whose acts any of them may be liable, regardless of whether or not caused in part by any negligence or omission of the INDEMNIFIED PARTIES hereunder or whether liability is imposed upon such INDEMNIFIED PARTY by laws and regulations regardless of the negligence of any such person or entity.

In the event that indemnification of the INDEMNIFIED PARTIES is prohibited by law, CONTRACTOR shall nonetheless be solely responsible for any liability arising out of or resulting from the performance of the Work, subject to the limitations set forth above, and shall indemnify and hold harmless the remaining INDEMNIFIED PARTIES, who may be legally indemnified, from such liability of the CONTRACTOR and the associated costs described above.

6.14.2 The indemnification obligation under paragraph 6.14.1 shall not be limited in any way by any limitation on the amount or type of damages, or compensation or benefits payable by or for CONTRACTOR or any such Subcontractor, Supplier or other person or organization under workers' compensation acts, disability benefit acts or other employee benefit acts.

6.14.3 The obligations of CONTRACTOR under paragraph 6.14.1 shall not extend to the liability of OWNER, E/A, E/A's consultants, and their officers, directors, partners, employees or agents caused primarily by negligent preparation of maps, drawings,

surveys, designs or specifications upon which is placed the applicable state-authorized design professional seal of OWNER's, E/A's or E/A's consultant's officers, directors, partners, employees or agents.

6.14.4 In the event CONTRACTOR fails to follow OWNER's directives concerning use of the site, scheduling or course of construction, or engages in other conduct which proximately causes damage to property based on inverse condemnation or otherwise, then and in that event, CONTRACTOR shall indemnify OWNER against all costs resulting from such claims.

6.14.5 In the event CONTRACTOR unreasonably delays progress of the work being done by others on the site so as to cause loss for which OWNER becomes liable, then CONTRACTOR shall indemnify OWNER from and reimburse OWNER for such loss.

6.15 Survival of Obligations: All representations, indemnifications, warranties and guarantees made in, required by or given in accordance with the Contract Documents, as well as all continuing obligations indicated in the Contract Documents, will survive final payment, completion and acceptance of the Work and termination or completion of the Agreement.

6.16 Losses from Natural Causes: Unless otherwise specified, all loss or damage to CONTRACTOR arising out of the nature of the Work to be done or from action of the elements, floods or from unforeseeable circumstances in prosecution of the Work or from unusual obstructions or difficulties which may be encountered in prosecution of the Work, shall be sustained and borne by CONTRACTOR at its own cost and expense.

6.17 Notice of Claim: Should CONTRACTOR suffer injury or damage to person or property because of any error, omission or act of OWNER or of any of OWNER's employees or agents or others for whose acts OWNER is liable, a Claim must be made to the other party within thirty (30) calendar days of the event giving rise to such injury or damage. The provisions of this paragraph 6.17 shall not be construed as a substitute for or a waiver of the provisions of any applicable statute of limitations or statute of repose.

6.18 Liquidated Damages: CONTRACTOR or its Surety shall be liable for liquidated damages for the failure of the CONTRACTOR to timely complete the Work or any portion thereof within the Contract Time.

ARTICLE 7 - OTHER WORK

7.1 OWNER may perform other work related to the Project at the site by OWNER's own forces, or let other contracts therefor, or have other work performed by utility owners. CONTRACTOR and OWNER agree to and shall use best efforts to cooperate and coordinate the Work with others performing work and other work related to the Project in order to avoid conflicts and delays in the Work. If CONTRACTOR believes that delay or additional cost is involved because of such action by OWNER, CONTRACTOR may make a Claim as provided in Article 11 or 12.

7.2 CONTRACTOR shall afford other contractors who are in a contract with OWNER and each utility owner (and OWNER, if OWNER is performing the additional work with OWNER's employees) proper and safe access to the site and a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work and shall properly connect and coordinate the Work with theirs. Unless otherwise provided in the Contract Documents, CONTRACTOR shall do all cutting, fitting and patching of the Work that may be required to make its several parts come together properly and integrate

with such other work. CONTRACTOR shall not endanger any work of others by cutting, excavating or otherwise altering their work and will only cut or alter their work with the written consent of Owner's Representative and the other contractors whose work will be affected. CONTRACTOR shall promptly remedy damage wrongfully caused by CONTRACTOR to completed or partially completed construction or to property of the OWNER or separate contractors.

7.3 If the proper execution or results of any part of CONTRACTOR's Work depends upon work performed by others under this Article 7, CONTRACTOR shall inspect such other work and promptly report to Owner's Representative in writing any delays, defects or deficiencies in such other work that render it unavailable or unsuitable for the proper execution and results of CONTRACTOR's Work. CONTRACTOR's failure to report will constitute an acceptance of such other work as fit and proper for integration with CONTRACTOR's Work except for latent or non-apparent defects and deficiencies in such other work.

7.4 OWNER shall provide for coordination of the activities of the OWNER's own forces and of each separate contractor with the Work of CONTRACTOR, who shall cooperate with them. CONTRACTOR shall participate with other separate contractors and Owner's Representative in reviewing their construction Progress Schedules when directed to do so. On the basis of such review, CONTRACTOR shall make any revisions to the construction Progress Schedule deemed necessary after a joint review and mutual agreement. The agreed upon construction Progress Schedules shall then constitute the Progress Schedules to be used by CONTRACTOR, separate contractors and OWNER until subsequently revised.

7.5 Costs caused by delays or by improperly timed activities or defective construction shall be borne by the party responsible therefor.

ARTICLE 8 - OWNER'S RESPONSIBILITIES

8.1 Prior to the start of construction, OWNER will designate in writing a person or entity to act as Owner's Representative during construction. Except as otherwise provided in these General Conditions, OWNER shall issue all communications to CONTRACTOR through Owner's Representative.

8.2 OWNER will not supervise, direct, control or have authority over or be responsible for CONTRACTOR's means, methods, techniques, sequences or procedures of construction or the safety precautions and programs incident thereto. OWNER is not responsible for any failure of CONTRACTOR to comply with laws and regulations applicable to furnishing or performing the Work. OWNER is not responsible for CONTRACTOR's failure to perform or furnish the Work in accordance with the Contract Documents. Failure or omission of OWNER to discover, or object to or condemn any defective Work or material shall not release CONTRACTOR from the obligation to properly and fully perform the Contract.

8.3 OWNER is not responsible for the acts or omissions of CONTRACTOR, or of any Subcontractor, any Supplier, or of any other person or organization performing or furnishing any of the Work. CONTRACTOR acknowledges and agrees that OWNER'S direction to perform Work in accordance with the approved Progress Schedule is not a demand for acceleration or a dictation of CONTRACTOR'S means or methods.

8.4 Information or services under the OWNER's control shall be furnished by the OWNER with reasonable promptness to avoid delay in orderly progress of the Work. The OWNER shall have a reasonable amount of time to investigate site conditions, review submittals, analyze requests for changes, and to make other decisions in the orderly administration of the Contract. CONTRACTOR must notify the OWNER in writing, if the time for the investigation,

review, analysis of any submittals, required for changes or otherwise required for OWNER'S decision, impacts in any way the Critical Path of the approved Progress Schedule.

8.5 The foregoing are in addition to other duties and responsibilities of the OWNER enumerated herein and especially those in respect to Article 4 (Availability of Lands; Subsurface and Physical Conditions; Reference Points), Article 7 (Other Work) and Article 14 (Payments to CONTRACTOR and Completion).

8.6 **Notice of Claim:** Should OWNER suffer injury or damage to person or property because of any error, omission or act of CONTRACTOR or of any of CONTRACTOR's employees or agents or others for whose acts CONTRACTOR is liable, a Claim will be made to the other party within thirty (30) calendar days of receipt of actual or constructive notice of the event giving rise to such injury or damage. The provisions of this paragraph 8.6 shall not be construed as a substitute for or a waiver of the provisions of any applicable statute of limitations or statute of repose.

ARTICLE 9 - ENGINEER/ARCHITECT'S STATUS DURING CONSTRUCTION

9.1 E/A's Authority and Responsibilities:

9.1.1 The duties and responsibilities and the limitations of authority of E/A during construction, as set forth in the Contract Documents, may be assigned or assumed by the OWNER, but shall not be extended without written consent of OWNER and/or E/A. The assignment of any authority, duties or responsibilities to E/A under the Contract Documents, or under any agreement between OWNER and E/A, or any undertaking, exercise or performance thereof by E/A, is intended to be for the sole and exclusive benefit of OWNER and not for the benefit of CONTRACTOR, Subcontractor, Supplier, or any other person or organization, or for any surety or employee or agent of any of them.

9.1.2 E/A will not supervise, direct, control or have authority over or be responsible for CONTRACTOR's means, methods, techniques, sequences or procedures of construction, or the safety precautions and programs incident thereto. E/A is not responsible for any failure of CONTRACTOR to comply with laws and regulations applicable to the furnishing or performing the Work. E/A is not responsible for CONTRACTOR's failure to perform or furnish the Work in accordance with the Contract Documents. Failure or omission of E/A to discover, or object to or condemn any defective Work or material shall not release CONTRACTOR from the obligation to properly and fully perform the Contract.

9.1.3 E/A is not responsible for the acts or omissions of CONTRACTOR, or of any Subcontractor, any Supplier, or of any other person or organization performing or furnishing any of the Work.

9.1.4 If OWNER and E/A agree, E/A will review the final Application for Payment and accompanying documentation and all maintenance and operating instructions, schedules, guarantees, bonds and certificates of inspection, tests and approvals and other documentation required to be delivered by Article 14, but only to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests and approvals that the results certified indicate compliance with, the Contract Documents.

9.1.5 The limitations upon authority and responsibility set forth in this paragraph 9.1 shall also apply to E/A's Consultants, Resident Project Representative and assistants.

9.2 E/A as Owner's Representative: E/A may be designated as the Owner's Representative under paragraph 8.1.

9.3 Visits to Site: If OWNER and E/A agree, E/A will make visits to the site at intervals appropriate to the various stages of construction as E/A deems necessary in order to observe as an experienced and qualified design professional the progress that has been made and the quality of the various aspects of CONTRACTOR's executed Work. Based on information obtained during such visits and observations, E/A will endeavor for the benefit of OWNER to determine, in general, if the Work is proceeding in accordance with the Contract Documents. E/A will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. E/A's efforts will be directed toward providing for OWNER a greater degree of confidence that the completed Work will conform generally to the Contract Documents. On the basis of such visits and on-site observations, E/A will keep OWNER informed of the progress of the Work and will endeavor to guard OWNER against defective Work. E/A's visits and on-site observations are subject to all the limitations on E/A's authority and responsibility set forth in paragraph 9.1.

9.4 Resident Project Representative: If OWNER and E/A agree, E/A will furnish a Resident Project Representative to assist E/A in providing more continuous observation of the Work. The responsibilities and authority and limitations of any such Resident Project Representative and assistants will be as provided in paragraph 9.1 and in the Supplemental General Conditions. OWNER may designate another representative or agent to represent OWNER at the site who is not E/A, E/A's consultant, agent or employee.

9.5 Clarifications and Interpretations: E/A may determine that written clarifications or interpretations of the requirements of the Contract Documents (in the form of drawings or otherwise) are necessary. Such written clarifications or interpretations will be consistent with the intent of and reasonably inferable from the Contract Documents, will be issued with reasonable promptness by Owner's Representative and will be binding on OWNER and CONTRACTOR. If OWNER or CONTRACTOR believes that a written clarification or interpretation justifies an adjustment in the Contract Amount or the Contract Times, OWNER or CONTRACTOR may make a Claim therefor as provided in Article 11 or 12.

9.6 Rejecting Defective Work: E/A will recommend that OWNER disapprove or reject Work which E/A believes to be defective, or believes will not produce a completed Project that conforms to the Contract Documents or will prejudice the integrity of the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.

9.7 Shop Drawings: Refer to Division 1 for E/A's authority concerning Shop Drawings.

ARTICLE 10 - CHANGES IN THE WORK

10.1 Changes:

10.1.1 Without invalidating the Contract and without notice to any surety, OWNER may, at any time or from time to time, order additions, deletions or revisions in the Work. Such changes in the Work will be authorized by Change Order, Change Directive or Field Order. In the event that the OWNER and the CONRACTOR are unable to negotiate the terms of a Change Order for the performance of additional Work, the OWNER may, at its election, perform such additional Work with its own forces or with another contractor and such work will be considered "Other Work" in accordance with Article 7.

10.1.2 Changes in the Work shall be performed under applicable provisions of the Contract Documents, and CONTRACTOR shall proceed promptly, unless otherwise

provided in the Change Order, Change Directive or Field Order. CONTRACTOR's proposals for changes in the Contract Amount and/or Contract Time shall be submitted within ten (10) Calendar Days of request by Owner's Representative, including impacts to the approved Progress Schedule, unless Owner's Representative grants an extension. OWNER will review each proposal and respond to CONTRACTOR within ten (10) Calendar Days. After review by OWNER, CONTRACTOR shall provide any supporting data requested by Owner's Representative within seven (7) Calendar Days, unless Owner's Representative grants an extension. OWNER will determine within seven (7) Calendar Days whether to pursue the change in Work.

10.1.3 CONTRACTOR shall not be entitled to an increase in the Contract Amount or an extension of the Contract Times with respect to any Work performed that is not required by the Contract Documents as amended, modified and supplemented as provided in paragraphs 3.3.1 and 3.3.2, except in the case of an emergency as provided in paragraph 6.11.5 or in the case of uncovering Work as provided in paragraph 13.4.

10.1.4 Except in the case of an emergency as provided in paragraph 6.11.5, a Change Order or Change Directive is required before CONTRACTOR commences any activities associated with a change in the Work which, in CONTRACTOR 's opinion, will result in a change in the Contract Amount and/or Contract Times.

10.1.5 If notice of any change affecting the general scope of the Work or the provisions of the Contract Documents (including, but not limited to, Contract Amount or Contract Times) is required by the provisions of any Bond to be given to a surety, the giving of any such notice will be CONTRACTOR's responsibility, and the amount of each applicable Bond will be adjusted accordingly.

10.2 Change Orders:

10.2.1 OWNER and CONTRACTOR shall execute appropriate written Change Orders covering:

.1 a change in the Work;

.2 the amount of the adjustment in the Contract Amount, if any; and

.3 the extent of the adjustment in the Contract Time, if any.

10.2.2 An executed Change Order shall represent the complete, equitable, and final amount of adjustment in the Contract Amount and/or Contract Time owed to CONTRACTOR or OWNER as a result of the occurrence or event causing the change in the Work encompassed by the Change Order.

10.3 Change Directives:

10.3.1 Without invalidating the Contract, OWNER may, by written Change Directive, using the Force Account method, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Amount and Contract Time being adjusted as necessary. "Force Account" means a basis of payment for the direct performance of Work with payment based on the actual cost of the labor, equipment and materials furnished and consideration for overhead and profit as set forth in Section 11.5, below. A Change Directive shall be used in the absence of complete and prompt agreement on the terms of a Change Order. Where practicable, any items of Work that may be agreed upon, prior to the performance of Work under this Section, will be included in a separate

Change Order. For example, the cost of the installation of additional asphalt may be agreed upon based on the unit prices in the Bid.

10.3.2 If the Change Directive provides for an adjustment to the Contract Amount, the adjustment shall be based on the method provided in paragraph 11.5.

10.3.3 A Change Directive shall be effective immediately and shall be recorded later by preparation and execution of an appropriate Change Order.

10.3.4 Upon receipt of a Change Directive, CONTRACTOR shall promptly proceed with the change in the Work involved, provided, prior to the commencement of any Work under this section, the CONTRACTOR must submit its proposed Work plan, anticipated schedule, and a list of its work force and equipment proposed to be used in the Work for OWNER'S approval. Upon such approval, CONTRACTOR must promptly commence and make continuous progress in the Work. The OWNER reserves the right to withhold payment for low production or lack of progress.

10.4 Field Order:

10.4.1 Owner's Representative may authorize minor variations in the Work from the requirements of the Contract Documents which do not involve an adjustment in the Contract Amount or the Contract Times and are compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. These shall be accomplished by written Field Order and shall be binding on OWNER and on CONTRACTOR who shall perform the Work involved promptly.

10.4.2 If CONTRACTOR believes that a Field Order would require an adjustment in the Contract Amount and/or Contract Times, CONTRACTOR shall make a prompt written request to Owner's Representative for a Change Order. Any request by CONTRACTOR for an adjustment in Contract Amount and/or Contract Times must be made in writing prior to beginning the work covered by the Field Order.

10.5 No Damages for Delay: CONTRACTOR shall receive no compensation for delays or hindrances to the Work, except when direct and unavoidable extra cost to CONTRACTOR is caused by failure of OWNER to provide information or material, if any, which is to be furnished by OWNER or access to the Work and only to the extent that such acts continue after the CONTRACTOR furnishes OWNER with written notice of such failure. When such extra compensation is claimed a written statement thereof shall be presented by CONTRACTOR to OWNER and if by OWNER found correct shall be approved. If delay is caused by specific orders given by OWNER to stop work or by performance of extra Work or by failure of OWNER to provide material or necessary instructions for carrying on the Work, then such delay will entitle CONTRACTOR to an equivalent extension of time, CONTRACTOR's application for which shall, however, be subject to approval of OWNER. No such extension of time shall release CONTRACTOR or surety on its performance bond from all CONTRACTOR's obligations hereunder which shall remain in full force until discharge of the Contract. In no event shall the CONTRACTOR be entitled to any compensation or recovery of any special damages in connection with any delays, including without limitation: consequential damages, lost opportunity costs, impact damages, or other similar damages. The OWNER'S exercise of any of its rights or remedies under the Contract Documents (including without limitation ordering changes in the Work, or directing suspension, rescheduling, or correction of the Work), regardless of the extent or frequency of the OWNER'S exercise of such rights or remedies, shall not be construed as active interference in the CONTRACTOR'S performance of the Work. Except as otherwise provided herein, an extension of Contract Time, to the extent permitted under Article 12, shall be the sole remedy of the CONTRACTOR for any acknowledged delays.

ARTICLE 11 - CHANGE OF CONTRACT AMOUNT

11.1 The Contract Amount is stated in the Agreement and, including authorized adjustments, is the total amount payable by OWNER to CONTRACTOR for performance of the Work under the Contract Documents.

11.2 The original Contract Amount may not be increased by more than twenty-five percent (25%) and it may not be decreased more than twenty-five percent (25%) without the consent of the CONTRACTOR to such decrease, except in the event of a termination for convenience under paragraph 15.2 or the failure of the City Council to appropriate sufficient funding for the Project, in which events it is agreed that the consent of the CONTRACTOR will not be required.

11.3 The Contract Amount shall only be changed by a Change Order. Any claim for an adjustment in the Contract Amount shall be made by Written Notice delivered by the party making the Claim to the other party promptly (but in no event later than thirty (30) calendar days) after the start of the occurrence or event giving rise to the Claim and stating the general nature of the Claim. Notice of the amount of the Claim with supporting data shall be delivered within thirty (30) calendar days after Written Notice of Claim is delivered by claimant, and shall represent that the adjustment claimed covers all known amounts to which claimant is entitled as a result of said occurrence or event. If OWNER and CONTRACTOR cannot otherwise agree, all Claims for adjustment in the Contract Amount shall be determined as set out in Article 16.

11.4 Determination of Value of Work:

11.4.1 The value of any Work covered by a Change Order for an adjustment in the Contract Amount will be determined by one or more of the following methods:

.1 by application of unit prices contained in the Contract Documents to the quantities of the items involved.

.2 by a mutually agreed unit price, or lump sum properly itemized and supported by sufficient substantiating data, including documentation by subcontractors performing the work, to permit evaluation.

.3 by cost of Work plus CONTRACTOR's fee for all overhead costs and profit (determined as provided in paragraph 11.5).

.4 No cost will be included in the change order for time spent preparing the change order, nor will costs be included for an estimate of time to negotiate the change order costs for machinery, tools, or equipment as described in subparagraph 11.5.3

11.4.2 Before using the method described in paragraph 11.4.1.3, OWNER and CONTRACTOR agree to negotiate a Change Order using the methods identified in paragraphs 11.4.1.1 and 11.4.1.2, as appropriate, to determine the adjustment in the Contract Amount.

11.5 **Cost of Work:** If neither of the methods defined in paragraphs 11.4.1.1 nor 11.4.1.2 can be agreed upon before a change in the Work is commenced which will result in an adjustment in the Contract Amount, then the change in the Work will be performed by Change Directive, using the Force Account method, and payment will be made as follows:

11.5.1 For all personnel, CONTRACTOR will receive actual field cost wage rates for each hour that said personnel are actually engaged in such Work, as substantiated by its certified payroll, to which will be added an amount equal to twenty-five percent

(25%) of the sum thereof as compensation for CONTRACTOR's total overhead, profit, and small tools. No separate charge will be made by CONTRACTOR or its Subcontractor(s) for organization or overhead expenses. In no case will the rate of wage be less than the minimum shown in the Contract for a particular category. CONTRACTOR will also receive an amount equal to 55% of the wages paid personnel, excluding the 25% compensation provided above, for CONTRACTOR's and any effected Subcontractor's cost of premiums on public liability insurance, workers' compensation insurance, social security and unemployment insurance. No charge for superintendence will be made unless considered necessary and ordered by OWNER.

11.5.2 CONTRACTOR will receive the actual cost, including freight charges, of the materials used and installed on such Work, to which costs will be added a sum equal to twenty-five percent (25%) thereof as compensation for CONTRACTOR's and any affected Subcontractor's total overhead and profit. In case material invoices indicate a discount may be taken, the actual cost will be the invoice price minus the discount.

11.5.3 For machinery, trucks, power tools, or other similar equipment (the "equipment") agreed to be necessary by OWNER and CONTRACTOR, OWNER will allow CONTRACTOR the Regional and Model Year adjusted Monthly Ownership Cost divided by 176 plus the Hourly Estimated Operating Costs as given in the latest edition of the "Rental Rate Blue Book" as published by EquipmentWatch (1-800-669-3282) for each hour that said equipment is in use on such work. The established equipment rates will be paid for each hour that the equipment is utilized in the Work. In the event that the equipment is used intermittently during the Work, full payment for an eight-hour day will be made if the equipment is not idle more than four (4) hours of the day. If the equipment is idle more than four (4) hours in a day, then payment will be made only for the actual hours worked. No additional compensation will be allowed on the equipment for CONTRACTOR's or any affected Subcontractor's overhead and profit. OWNER may accept an actual rental invoice in lieu of the method of calculation set forth in paragraph 11.5.3 for equipment rented exclusively for Force Account Work or for equipment not included in the Rental Rate Blue Book.

11.5.4 For Subcontractors, CONTRACTOR will receive the approved actual invoice cost plus 5% as compensation for CONTRACTOR's total overhead and profit.

11.5.5 CONTRACTOR will receive an additional 1% of the total of 11.5.1, 11.5.2, 11.5.3, and 11.5.4 as compensation for increased bond costs.

11.5.6 The compensation, as herein provided for, shall be received by CONTRACTOR and any affected Subcontractor as payment in full for work done by Change Directive and will include use of small tools, and total overhead expense and profit. CONTRACTOR and Owner's Representative shall compare records of work done by Change Directive at the end of each day. Copies of these records will be made upon forms provided for this purpose by OWNER and signed by both Owner's Representative and CONTRACTOR, with one copy being retained by OWNER and one by CONTRACTOR. Refusal by CONTRACTOR to sign these records within two (2) working days of presentation does not invalidate the accuracy of the record.

11.6 Unit Price Work:

11.6.1 Where the Contract Documents provide that all or part of the Work is to be unit price Work, initially the Contract Amount will be deemed to include for all unit price work an amount equal to the sum of the established unit price for each separately

identified item of unit price work times the estimated quantity of each item as indicated in the Bid. The estimated quantities of items of unit price work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Amount. Determinations of the actual quantities and classifications of unit price work performed by CONTRACTOR will be made by Owner's Representative. Owner's Representative will review with CONTRACTOR the preliminary determinations on such matters before rendering a written decision thereon (by recommendation of an Application for Payment or otherwise).

11.6.2 When "plan quantity" is indicated for a Bid item, CONTRACTOR shall be paid amount specified in the Contract Documents without any measurements.

11.6.3 Each unit price will be deemed to include an amount considered by CONTRACTOR to be adequate to cover CONTRACTOR's overhead and profit for each separately identified item.

11.6.4 A Major Item is any individual Bid item in the Bid that has a total cost equal to or greater than five percent (5%) of the original Contract Amount or $50,000, whichever is greater, computed on the basis of Bid quantities and Contract unit prices.

11.6.5 OWNER or CONTRACTOR may make a Claim for an adjustment in the Contract Amount in accordance with Article 11 if:

.1 the actual quantity of any Major Item should become as much as twenty percent (20%) more than or twenty percent (20%) less than that in the Bid; or

.2 CONTRACTOR presents documentation contesting accuracy of "plan quantity" and Owner's Representative verifies quantity and determines original value is in error by five percent (5%) or more;

Provided, however, in the event a Major Item is reduced by twenty percent (20%) or more of the amount in the Bid, no additional Article 11 profit or overhead will be added, if, due to other additions in the Work, the net value of the Contract Amount is not reduced.

ARTICLE 12 - CHANGE OF CONTRACT TIMES

12.1 Working Day and Calendar Day Contracts:

12.1.1 The Contract Times (or Milestones) may only be changed by Change Order or Time Extension Request duly executed by both CONTRACTOR and Owner's Representative. Any claim for an adjustment of the Contract Times (or Milestones) shall be made by Written Notice delivered by the party making the Claim to the other party promptly (but in no event later than thirty (30) calendar days after the start of the occurrence or event giving rise to the delay) and stating the general nature of the delay. Notice of the extent of the delay with supporting data shall be delivered within thirty (30) calendar days after Written Notice of Claim is delivered by claimant, and shall represent that the adjustment claimed is the entire adjustment to which claimant is entitled as a result of said occurrence or event. If OWNER and CONTRACTOR cannot otherwise agree, all Claims for adjustment in the Contract Times (or Milestones) shall be determined as set out in Article 16. No Claim for an adjustment in the Contract Times (or Milestones) will be valid if not submitted in accordance with the requirements of this paragraph.

12.1.2 When CONTRACTOR is at fault and OWNER stops the Work, so that corrections in the Work can be made by CONTRACTOR, no extension in time will be allowed.

12.1.3 When CONTRACTOR is prevented from completing any part of the Work within the Contract Times (or Milestones) due to delay beyond the control of both OWNER and CONTRACTOR, an extension of the Contract Times (or Milestones) in an amount equal to the time lost due to such delay shall be CONTRACTOR's sole and exclusive remedy for such delay. If performance by the CONTRACTOR or OWNER is interrupted by any occurrence not occasioned by its own conduct, whether such occurrence be an act of god or the result of war, riot, civil commotion, sovereign conduct, or the conduct of a third party, then such performance will be excused for a period of time necessary to remedy its effects, provided, however, in such an event, a conference will be held within three (3) business days to establish a proposed new Progress Schedule for the Project.

12.1.4 OWNER will consider time extension requests and may grant CONTRACTOR an extension of time because of:

.1 Changes ordered in the work which justify additional time.

.2 Failure of materials or products being at the Project site due to delays in transportation or failures of Suppliers, which are not the result of CONTRACTOR's, Subcontractor's or Supplier's negligence. The request for an extension of time shall be supported by a citation of acts demonstrating that the delays are beyond CONTRACTOR's control, including, but not limited to, CONTRACTOR's efforts to overcome such delays documented as follows:

a) Copy of purchase order for delayed item(s) indicating date ordered by CONTRACTOR/ Subcontractor and date purchase order received by Supplier.

b) If item(s) require Shop Drawings or other submittal information in accordance with the Contract Documents, provide record of date submittal(s) forwarded to Owner's Representative, date submittal(s) returned to CONTRACTOR, and date submittal(s) forwarded to Supplier.

c) Copy of document(s) from Supplier, on Supplier's letterhead, indicating date(s) item(s) would be ready for shipment and/or actual shipment date(s).

d) Copies of all correspondence between CONTRACTOR / Subcontractor and Supplier indicating CONTRACTOR / Subcontractor's efforts to expedite item(s).

e) If item(s) are being purchased by a Subcontractor, provide correspondence, meeting notes, etc., that reflect CONTRACTOR's efforts with the Subcontractor to expedite delivery of the item(s).

.3 When acts of OWNER, E/A, utility owners or other contractors employed by OWNER delay progress of work through no fault of CONTRACTOR. The CONTRACTOR will only be entitled to an extension of time for delays that affect the Critical Path of the Work and that are not caused by the CONTRACTOR.

.4 When CONTRACTOR is delayed by strikes, lockouts, fires, losses from natural causes, or other unavoidable cause or causes beyond CONTRACTOR's control.

12.2 Calendar Day Contracts:

12.2.1 Under a Calendar Day Contract, CONTRACTOR may be granted an extension of time because of unusual inclement weather, including but not limited to unusual rainfall events, which are beyond the normal rainfall recorded and expected for Austin, Texas. However, the CONTRACTOR will not be granted an extension of time for "normal rainfall", as described below.

12.2.2 "Unusual Inclement Weather" is defined as a rain event or other weather related event which occurs at the site and is of sufficient magnitude to prevent CONTRACTOR from performing units of Work critical to maintaining the Progress Schedule.

12.2.3 Baseline Rain Day Determination. "Normal rainfall" compiled by the State climatologist, based on U.S. Weather Bureau Records for Austin, Texas, is considered a part of the Calendar Day Contract, and is not a justification for an extension of time. Listed below are the number of days in each month for which no compensatory days for rainfall events ("Rain Days") in such months may be claimed:

January..... 8 days

February..... 8 days

March..... 7 days

April..... 7 days

May..... 9 days

June..... 6 days

July..... 5 days

August..... 5 days

September..... 7 days

October..... 7 days

November..... 7 days

December..... 7 days

Rain Days in addition to the baseline Rain Day determination described above will be measured with the Owner's Representative's approval at the nearest operational public weather data collection facility to the site, including but not limited to the OWNER's early warning flood gauge system.

12.2.4 CONTRACTOR may receive credit in any month for Unusual Inclement Weather, and specifically for any Rain Days in that month which exceed the number of Rain Days allocated to that month, if a Claim is made in accordance with paragraph 12.1.1 and the weather event meets the definition for "Unusual Inclement Weather", and as applicable, "Rain Day" and such claimed day is a day on which Work critical to maintaining the Progress Schedule is scheduled to be performed and is otherwise capable of being performed.

ARTICLE 13 - TESTS AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK

13.1 Notice of Defects: Prompt notice of all defective Work of which OWNER or E/A has actual knowledge will be given to CONTRACTOR. All defective Work may be rejected, corrected or accepted as provided in Article 13. CONTRACTOR must give OWNER and E/A prompt notice of any defective Work of which CONTRACTOR has actual knowledge.

13.2 Access to Work: OWNER, E/A, E/A's Consultants, other representatives and personnel of OWNER, independent testing laboratories and governmental agencies having jurisdiction will have access to the Work at reasonable times for observing, inspecting and testing. CONTRACTOR shall provide them proper and safe conditions for such access, and advise them of CONTRACTOR's site safety procedures and programs so that they may comply therewith as applicable.

13.3 Tests and Inspections:

13.3.1 CONTRACTOR shall give timely notice of readiness of the Work for all required inspections, tests or approvals, and shall cooperate with inspection and testing personnel to facilitate required inspections or tests.

13.3.2 OWNER shall employ and pay for services of an independent testing laboratory to perform all inspections, tests or approvals required by the Contract Documents except:

.1 for inspections, tests or approvals covered by paragraphs 13.3.3 and 13.3.4 below;

.2 that costs incurred for tests or inspections conducted pursuant to paragraph 13.4.3 shall be paid as provided in paragraph 13.4.3;

.3 for reinspecting or retesting defective Work, including any associated costs incurred by the testing laboratory for cancelled tests or standby time; and

.4 as otherwise specifically provided in the Contract Documents.

13.3.3 If laws or regulations of any public body having jurisdiction require any Work (or part thereof) specifically to be inspected, tested or approved by an employee or other representative of such public body, CONTRACTOR shall assume full responsibility for arranging and obtaining such inspections, tests or approvals, pay all costs in connection therewith and furnish Owner's Representative the required certificates of inspection or approval.

13.3.4 CONTRACTOR shall also be responsible for arranging and obtaining and shall pay all costs in connection with any inspections, tests or approvals required for OWNER's and E/A's review of submittals covering materials, equipment, and mix designs to be incorporated in the Work.

13.3.5 All testing laboratories shall meet the requirements of ASTM E-329.

13.4 Uncovering Work:

13.4.1 If any Work (or the work of others) that is to be inspected, tested or approved is covered by CONTRACTOR without written concurrence of Owner's Representative, or if any Work is covered contrary to the written request of Owner's Representative, it must, if requested by Owner's Representative, be uncovered and recovered at CONTRACTOR's expense.

13.4.2 Uncovering Work as provided in paragraph 13.4.1 shall be at CONTRACTOR's expense unless CONTRACTOR has given Owner's Representative timely notice of CONTRACTOR's intention to cover the same and Owner's Representative has not acted within five (5) working days to such notice.

13.4.3 If Owner's Representative considers it necessary or advisable that covered Work be observed, inspected or tested, CONTRACTOR shall uncover, expose or otherwise make available for observation, inspection or testing that portion of the Work in question, furnishing all necessary labor, material and equipment. If it is found that such Work is defective, CONTRACTOR shall pay all claims, costs, losses and damages caused by, arising out of or resulting from such uncovering, exposure, observation, inspection and testing and of satisfactory replacement or reconstruction (including but not limited to all costs of repair or replacement of work of others); and OWNER shall be entitled to an appropriate decrease in the Contract Amount, and may make a Claim therefor as provided in Article 11. If, however, such Work is not found to be defective, CONTRACTOR shall be allowed an increase in the Contract Amount or an extension of the Contract Times (or Milestones), or both, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement and reconstruction; and CONTRACTOR may make a Claim therefor as provided in Articles 11 and 12.

13.5 OWNER May Stop the Work:

13.5.1 If the Work is defective, or CONTRACTOR fails to supply sufficient skilled workers, suitable materials, and/or equipment; or fails to furnish or perform the Work in such a way that the Work in progress or the completed Work will conform to the Contract Documents, OWNER may order CONTRACTOR to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of OWNER to stop the Work shall not give rise to any duty on the part of OWNER to exercise this right for the benefit of CONTRACTOR or any surety or other party.

13.5.2 If CONTRACTOR fails to correct defective Work or submit a satisfactory plan to take corrective action, with procedure and time schedule, OWNER may order CONTRACTOR to stop the Work, or any portion thereof, until cause for such order has been eliminated, or take any other action permitted by this Contract. A notice to stop the Work, based on defects, shall not stop calendar or working days charged to the Project.

13.6 Correction or Removal of Defective Work: If required by OWNER, CONTRACTOR shall promptly, as directed, either correct all defective Work, whether or not fabricated, installed or completed, or, if the Work has been rejected by Owner's Representative, remove it from the site and replace it with Work that is not defective. CONTRACTOR shall correct or remove and replace defective Work, or submit a plan of action detailing how the deficiency will be corrected, within the time frame identified in the notice of defective Work. CONTRACTOR shall pay all claims, costs, losses and damages caused by or resulting from such correction or removal (including but not limited to all costs of repair or replacement of work of others).

13.7 Warranty period:

13.7.1 If within one year after the date of Substantial Completion or such longer period of time as may be prescribed by laws or regulations or by the terms of any applicable special guarantee required by the Contract Documents or by any specific provision of the Contract Documents (e.g. paragraph 14.11.2), any Work, including work performed after the Substantial Completion date, is found to be defective,

CONTRACTOR shall promptly, without cost to OWNER and in accordance with OWNER's written instructions:

(i) correct such defective Work, or, if it has been rejected by OWNER, remove it from the site and replace it with Work that is not defective, and

(ii) satisfactorily correct or remove and replace any damage to other Work or the work of others resulting therefrom.

If CONTRACTOR does not promptly comply with the terms of such instructions, or in an emergency where delay would cause serious risk of loss or damage, OWNER may have the defective Work corrected or the rejected Work removed and replaced, and all claims, costs, losses and damages caused by or resulting from such removal and replacement (including but not limited to all costs of repair or replacement of work of others) will be paid by CONTRACTOR. The warranty period will be deemed to be renewed and recommenced in connection with the completed items of Work requiring correction.

13.7.2 In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the warranty period for that item may start to run from an earlier date if so provided in the Contract Documents.

13.7.3 If correction of defective Work will affect the function or use of the facility CONTRACTOR shall not proceed with correction of defective Work without prior coordination and approval of OWNER.

13.7.4 The obligations of the CONTRACTOR to perform warranty work will survive the acceptance of the Work and any termination of the Contract.

13.8 Acceptance of Defective Work: If, instead of requiring correction or removal and replacement of defective Work, OWNER decides to accept it, OWNER may do so. CONTRACTOR shall pay all claims, costs, losses and damages attributable to OWNER's evaluation of and determination to accept such defective Work. If any such acceptance occurs prior to recommendation of final payment, a Change Order will be issued incorporating the necessary revisions in the Contract Documents and compensating OWNER for the diminished value of the defective Work. If the acceptance occurs after such recommendation, an appropriate amount will be paid by CONTRACTOR to OWNER after a calculation by OWNER of the diminution in value of the defective Work.

13.9 OWNER May Correct Defective Work: If CONTRACTOR fails within a reasonable time after Written Notice of OWNER to correct defective Work, or to remove and replace rejected Work, or if CONTRACTOR fails to perform the Work in accordance with the Contract Documents, or if CONTRACTOR fails to comply with any other provision of the Contract Documents, OWNER may, after seven (7) calendar days' Written Notice to CONTRACTOR, correct and remedy any such deficiency. If, in the opinion of the Owner's Representative, significant progress has not been made during this seven (7) calendar day period to correct the deficiency, the OWNER may exercise any actions necessary to remedy the deficiency. In exercising the rights and remedies under this paragraph, OWNER shall proceed expeditiously. In connection with such corrective and remedial action, OWNER may exclude CONTRACTOR from all or part of the site, take possession of all or part of the Work, and suspend CONTRACTOR's services related thereto, and incorporate in the Work all materials and equipment stored at the site or for which OWNER has paid CONTRACTOR but which are stored elsewhere. CONTRACTOR shall allow OWNER, its agents and employees, OWNER's other contractors, E/A and E/A's consultants access to the site to enable OWNER to exercise the rights and remedies under this paragraph. All claims, costs, losses and damages incurred or sustained by OWNER in exercising such rights and remedies will be charged

against CONTRACTOR and a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work. Such claims, costs, losses and damages will include but not be limited to all costs of repair or replacement of work of others destroyed or damaged by correction, removal or replacement of CONTRACTOR's defective Work. CONTRACTOR shall not be allowed an extension of the Contract Times (or Milestones), or claims of damage because of any delay in the performance of the Work attributable to the exercise by OWNER of OWNER's rights and remedies hereunder.

ARTICLE 14 - PAYMENTS TO CONTRACTOR AND COMPLETION

14.1 Application for Progress Payment:

14.1.1 Within 45 days from when the work was performed by the Contractor and Subcontractors, but not more often than once a month, CONTRACTOR shall submit to Owner's Representative for review an Application for Payment, in a form acceptable to OWNER, filled out and signed by CONTRACTOR covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents.

14.1.2 Such applications shall not include requests for payment on account of changes in the Work which have been properly authorized by Change Directives but not yet included in Change Orders.

14.1.3 Such applications shall not include requests for payment of amounts the CONTRACTOR does not intend to pay to a Subcontractor or Supplier because of a dispute or other reason.

14.1.4 If payment is requested on the basis of materials or equipment not incorporated in the Work but delivered and suitably stored at the site or at another location agreed to in writing, the Application for Payment shall be accompanied by such bills of sale, data and other procedures satisfactory to OWNER substantiating OWNER’s title to such materials or equipment or otherwise protecting OWNER’s interest. Payment on account of such materials or equipment will not include any amount for CONTRACTOR’s overhead or profit or relieve CONTRACTOR of its obligation to protect and install such materials or equipment in accordance with the requirements of the Contract and to restore damaged or defective Work. If materials or equipment are stored at another location, at the direction of the OWNER they shall be stored in a bonded and insured facility, accessible to E/A and OWNER, and shall be clearly marked as property of OWNER. Title to materials delivered to the site of the Work or a staging area will pass to OWNER upon payment by OWNER without the necessity for further documentation. Risk of loss will not pass to OWNER until acceptance.

14.1.5 Where the original Contract Amount is less than $400,000, OWNER will pay CONTRACTOR total amount of approved Application for Payment, less ten percent (10%) of amount thereof, which ten percent (10%) will be retained until final payment, less all previous payments and less all other sums that may be retained by OWNER under the terms of this Agreement. Where the original Contract Amount is $400,000 or more, OWNER will pay CONTRACTOR total amount of approved Application for Payment, less five percent (5%) of amount thereof, which five percent (5%) will be retained until final payment, less all previous payments and less all other sums that may be retained by OWNER under the terms of this Agreement. In either case, if the Work is near completion and delay occurs due to no fault or neglect of CONTRACTOR, OWNER may pay a portion of the retained

amount to CONTRACTOR. CONTRACTOR, at OWNER's option, may be relieved of the obligation to complete the Work and, thereupon, CONTRACTOR shall receive payment of the balance due under the Contract subject to the conditions stated under paragraph 15.2. A Subcontractor may submit a written request to the CONTRACTOR and Project Manager requesting release of retainage for work by the Subcontractor that has been completed and approved. The Project Manager will evaluate the request and if it is approved, the Project Manager will request the CONTRACTOR to include the request for release of an appropriate amount of retainage in the next Pay Application.

14.1.6 Applications for Payment shall include the following documentation:

.1 updated Progress Schedule;

.2 monthly subcontractor report;

.3 any other documentation required under the Supplemental General Conditions.

14.2 CONTRACTOR's Warranty of Title: CONTRACTOR warrants and guarantees that title to all Work, materials and equipment covered by any Application for Payment, whether incorporated in the Project or not, will pass to OWNER free and clear of all Liens no later than the time of payment to CONTRACTOR.

14.3 Review of Applications for Progress Payment:

14.3.1 Owner's Representative will, within seven (7) calendar days after receipt of each Application for Payment, either indicate a recommendation for payment and forward the Application for processing by OWNER, or return the Application to CONTRACTOR indicating Owner's Representative's reasons for refusing to recommend payment. In the latter case, CONTRACTOR shall make the necessary corrections and resubmit the Application.

14.3.2 Owner's Representative's recommendation of any payment requested in an Application for Payment will constitute a representation by Owner's Representative, based upon Owner's Representative's on-site observations of the executed Work and on Owner's Representative's review of the Application for Payment and the accompanying data and schedules, that to the best of Owner's Representative's knowledge, information and belief:

.1 the Work has progressed to the point indicated; and

.2 the quality of the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents, to a final determination of quantities and classifications for unit price Work, and to any other qualifications stated in the recommendation).

14.3.3 By recommending any such payment, Owner's Representative will not thereby be deemed to have represented that:

.1 exhaustive or continuous on-site inspections have been made to check the quality or the quantity of the Work;

.2 examination has been made to ascertain how or for what purpose CONTRACTOR has used money previously paid on account of the Contract Amount;

.3 CONTRACTOR's construction means, methods, techniques, sequences or procedures have been reviewed; or

.4 that there may not be other matters or issues between the parties that might entitle CONTRACTOR to be paid additionally by OWNER or entitle OWNER to withhold payment to CONTRACTOR.

14.4 Decisions to Withhold Payment:

14.4.1 OWNER may withhold or nullify the whole or part of any payment to such extent as may be necessary on account of:

.1 defective Work not remedied;

.2 third party Claims filed or reasonable evidence indicating probable filing of such Claims;

.3 failure of CONTRACTOR to make payments properly to Subcontractors for labor, materials or equipment;

.4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Amount;

.5 damage to OWNER or another contractor;

.6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;

.7 failure of CONTRACTOR to submit a schedule of values in accordance with the Contract Documents;

.8 failure of CONTRACTOR to submit a submittal schedule in accordance with the Contract Documents;

.9 failure of CONTRACTOR to submit and update a construction Progress Schedule in accordance with the Contract Documents;

.10 failure of CONTRACTOR to maintain a record of changes on drawings and documents;

.11 failure of CONTRACTOR to maintain weekly payroll reports and, as applicable, provide copies of reports in a timely manner upon request of OWNER;

.12 failure of CONTRACTOR to submit monthly subcontractor reports;

.13 CONTRACTOR's neglect or unsatisfactory prosecution of the Work, including failure to clean up;

.14 failure of CONTRACTOR to comply with the Austin City Code, Chapter 2-9-A, as amended, "Minority-Owned and Women-Owned Business Enterprise Procurement Program;" or

.15 failure of CONTRACTOR to comply with any provision of the Contract Documents.

14.4.2 When the above reasons for withholding payment are removed, CONTRACTOR shall resubmit a statement for the value of Work performed. Payment will be made within thirty (30) calendar days of receipt of approved Application for Payment.

14.4.3 Subcontractors may request Partial Payment when the OWNER withholds payment of an invoice to the CONTRACTOR for any reason listed in Section 14.4.1. If payment is withheld by the OWNER, the CONTRACTOR shall notify all affected Subcontractors within two (2) working days of notice that payment is being withheld. Upon notification, Subcontractors may submit a formal written request

for Partial Payment to the CONTRACTOR and OWNER. If directed by the OWNER, the CONTRACTOR shall within three (3) working days resubmit to the OWNER an invoice for the same period that includes only the work performed by the requesting Subcontractors during this period. The OWNER will review this resubmitted invoice in accordance with Section 14.3.1. Upon receipt of payment for the resubmitted invoice, CONTRACTOR shall pay the subcontractor within ten (10) Calendar Days in accordance with Section 6.4.7.

14.5 Delayed Payments: Should OWNER fail to make payment to CONTRACTOR of sum named in any Application for Payment within thirty (30) calendar days after the day on which OWNER received the mutually acceptable Application for Payment, then OWNER will pay to CONTRACTOR, in addition to sum shown as due by such Application for Payment, interest thereon at the rate specified in Government Code, Section 2251.025(b) from date due until fully paid, which shall fully liquidate any injury to CONTRACTOR growing out of such delay in payment.

14.6 Arrears: No money shall be paid by OWNER upon any claim, debt, demand or account whatsoever, to any person, firm or corporation who is in arrears to City for taxes; and City shall be entitled to counterclaim and automatically offset against any such debt, claim, demand or account in the amount of taxes so in arrears and no assignment or transfer of such debt, claim, demand or account after said taxes are due, shall affect the right of OWNER to so offset said taxes, and associated penalties and interest if applicable, against the same.

14.7 Substantial Completion:

14.7.1 When the CONTRACTOR considers that the Work, or a portion thereof which the OWNER agrees to accept separately, is substantially complete, the CONTRACTOR shall notify Owner's Representative and request a determination as to whether the Work or designated portion thereof is substantially complete. If Owner's Representative does not consider the Work substantially complete, Owner's Representative will notify CONTRACTOR giving reasons therefor. After performing any required Work, CONTRACTOR shall then submit another request for Owner's Representative to determine Substantial Completion. If Owner's Representative considers the Work substantially complete, Owner's Representative will prepare and deliver a certificate of Substantial Completion which shall establish the date of Substantial Completion, shall include a punch list of items to be completed or corrected before final payment, shall establish the time within which CONTRACTOR shall finish the punch list, and shall establish responsibilities of the OWNER and CONTRACTOR for security, maintenance, heat, utilities, damage to the Work, warranty and insurance. Failure to include an item on the punch list does not alter the responsibility of CONTRACTOR to complete all Work in accordance with the Contract Documents. If a Certificate of Occupancy is required by public authorities having jurisdiction over the Work, said certificate shall be issued before the Work or any portion thereof is considered substantially complete. The certificate of Substantial Completion shall be signed by OWNER and CONTRACTOR to evidence acceptance of the responsibilities assigned to them in such certificate.

14.7.2 OWNER shall have the right to exclude CONTRACTOR from the Work after the date of Substantial Completion, but OWNER will allow CONTRACTOR reasonable access to complete or correct items on the punch list and complete warranty work.

14.8 Partial Utilization: Use by OWNER, at OWNER's option, of any substantially completed part of the Work which: (i) has specifically been identified in the Contract Documents, or (ii) OWNER and CONTRACTOR agree constitutes a separately functioning and usable part of the Work that can be used by OWNER for its intended purpose without significant interference

with CONTRACTOR's performance of the remainder of the Work, may be accomplished prior to Substantial Completion of all the Work in accordance with the following:

14.8.1 OWNER at any time may request CONTRACTOR to permit OWNER to use any such part of the Work which OWNER believes to be ready for its intended use and substantially complete. If CONTRACTOR agrees that such part of the Work is substantially complete, CONTRACTOR shall certify to Owner's Representative that such part of the Work is substantially complete and request Owner's Representative to issue a certificate of substantial Completion for that part of the Work. CONTRACTOR at any time may notify Owner's Representative that CONTRACTOR considers any such part of the Work ready for its intended use and substantially complete and request Owner's Representative to issue a certificate of Substantial Completion for that part of the Work. The provisions of paragraphs 14.7.1 and 14.7.2 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.

14.8.2 Such partial utilization is authorized by public authorities having jurisdiction over the Work.

14.9 Final Inspection: Upon Written Notice from CONTRACTOR that the entire Work or an agreed portion thereof is complete, Owner's Representative will make a final inspection with CONTRACTOR and provide Written Notice of all particulars in which this inspection reveals that the Work is incomplete or defective. CONTRACTOR shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies.

14.10 Final Application for Payment: CONTRACTOR may make application for final payment following the procedure for progress payments after CONTRACTOR has completed all such corrections to the satisfaction of Owner's Representative and delivered the following documents:

14.10.1 Affidavit by CONTRACTOR certifying the payment of all debts and claims;

14.10.2 Three (3) complete operating and maintenance manuals, each containing maintenance and operating instructions, schedules, guarantees, and other documentation required by the Contract Documents;

14.10.3 Record documents (as provided in paragraph 6.10);

14.10.4 Consent of surety, if any, to final payment. If surety is not provided, complete and legally effective releases or waivers (satisfactory to OWNER) of all claims arising out of or filed in connection with the Work;

14.10.5 Certificate evidencing that insurance required by the Supplemental General Conditions will remain in force after final payment and through the warranty period;

14.10.6 Non-Use of Asbestos Affidavit (After Construction);

14.10.7 Subcontractor report and all other documentation necessary for evaluation of CONTRACTOR’s fulfillment of the Contract MBE/WBE or DBE goals;

14.10.8 Documentation of notice to claimants, to the extent applicable and subject to subparagraph 14.11.4;

14.10.9 Proof of performance Bond extension through warranty period, if a performance Bond was required; and

14.10.10 Any other documentation called for in the Contract Documents.

14.11 Final Payment and Acceptance:

14.11.1 If, on the basis of observation of the Work during construction, final inspection, and review of the final Application for Payment and accompanying documentation as required by the Contract Documents, Owner's Representative is satisfied that the Work has been completed and CONTRACTOR's other obligations under the Contract Documents have been fulfilled and there are no outstanding claims, Owner's Representative will recommend the final Application for Payment and thereby notify the OWNER, who will pay to CONTRACTOR the balance due CONTRACTOR under the terms of the Contract. If the sole remaining unfinished item to complete the Work is the reestablishment of vegetation, CONTRACTOR may execute a revegetation letter with fiscal posted (letter of credit) to ensure completion of this item. This Work must be accomplished within one hundred twenty (120) Calendar Days of the date of Final Completion of the Work. When the permanent erosion control has been established, OWNER will initiate an inspection for final acceptance of the erosion controls. If the revegetation is not completed within the one hundred twenty (120) Calendar Days, OWNER, at its option, may complete the Work using the posted fiscal.

14.11.2 If the Contract measures Contract Time to Final Completion, rather than Substantial Completion, Owner's Representative will issue a letter of final acceptance to CONTRACTOR which establishes the Final Completion date and initiates the one-year warranty period. If the sole remaining unfinished item to complete the Work is the reestablishment of vegetation and CONTRACTOR has executed a revegetation letter with fiscal posted (letter of credit) to ensure completion of this item, the Owner’s Representative will issue a letter of conditional acceptance to CONTRACTOR which established the Final Completion date and initiates the one-year warranty period.

14.11.3 Final payment is considered to have taken place when CONTRACTOR or any of its representatives negotiates OWNER's final payment check, whether labeled final or not, for cash or deposits check in any financial institution for its monetary return.

14.11.4 The OWNER will withhold funds sufficient to cover the amount of any unresolved contract claims from final payment for six months under the following limited conditions:

.1 CONTRACTOR must provide written notice to the claimant (via certified mail or hand delivery) that (i) OWNER will hold funds in the amount of the disputed claim for six (6) months from the date of the receipt of the notice and (ii) CONTRACTOR and the claimant have certain alternative dispute resolution rights; and

.2 CONTRACTOR must provide OWNER with a copy of the receipted notice.

Provided the claimant has received notice under this section, OWNER will release the withheld funds, if the CONTRACTOR provides a bond in substantial compliance with the provisions of Section 52.231 of the Texas Property Code; when the OWNER receives a settlement or release of the claim with accompanying instructions regarding payment; upon resolution of the claim in litigation, if suit is filed within such six (6) month period and the OWNER receives written notice of such filing; or when such six (6) month period has passed, if no such bond, settlement, release, or notice of filing of suit have been received. The above provisions notwithstanding, if efforts to timely resolve a disputed claim are not being made to OWNER’S reasonable satisfaction, OWNER may, in its complete discretion, file an interpleader action and deposit the withheld funds in the registry

of a court of competent jurisdiction. In addition, CONTRACTOR must include a provision in each of its subcontracts that the prevailing party in any litigation arising thereunder will be entitled to recover its costs of court and reasonable attorney's fees.

14.12 Waiver of Claims: The making and acceptance of final payment will constitute:

14.12.1 a waiver of claims by OWNER against CONTRACTOR, except claims arising from unsettled claims, from defective Work appearing after final inspection, from failure to comply with the Contract Documents or the terms of any warranty specified therein, or from CONTRACTOR's continuing obligations under the Contract Documents; and

14.12.2 a waiver of all claims by CONTRACTOR against OWNER other than those previously made in writing and still unsettled.

ARTICLE 15 - SUSPENSION OF WORK AND TERMINATION

15.1 OWNER May Suspend Work Without Cause: At any time and without cause, OWNER may suspend the Work or any portion thereof for a period of not more than ninety (90) calendar days by Written Notice to CONTRACTOR which will fix the date on which the Work will be resumed. CONTRACTOR shall resume the Work on the date so fixed. CONTRACTOR shall be allowed an adjustment in the Contract Amount or an extension of the Contract Times, or both, directly attributable to any such suspension if CONTRACTOR makes an approved Claim therefor as provided in Articles 11 and 12.

15.2 OWNER May Terminate Without Cause: Upon seven (7) calendar days' Written Notice to CONTRACTOR, OWNER may, without cause and without prejudice to any right or remedy of OWNER, elect to terminate the Agreement. In such case, CONTRACTOR shall be paid (without duplication of any items):

15.2.1 for completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination;

15.2.2 for reasonable demobilization costs; and

15.2.3 for anticipated profits on completed and accepted Work not previously paid and not included in separate pay items calculated to date of termination but not for anticipated profit on the entire Contract not previously paid, unabsorbed overhead, or lost opportunity.

15.3 OWNER May Terminate With Cause:

15.3.1 Upon the occurrence of any one or more of the following events:

.1 if CONTRACTOR persistently fails to perform the Work in accordance with the Contract Documents;

.2 if CONTRACTOR disregards laws or regulations of any public body having jurisdiction;

.3 if CONTRACTOR disregards the authority of Owner's Representative;

.4 if CONTRACTOR makes fraudulent statements;

.5 if CONTRACTOR fails to maintain a work force adequate to accomplish the Work within the Contract Time;

.6 if CONTRACTOR fails to make adequate progress and endangers successful completion of the Contract; or

.7 if CONTRACTOR otherwise violates in any substantial way any provisions of the Contract Documents;

OWNER may, after giving CONTRACTOR (and the surety, if any) seven (7) calendar days Written Notice terminate the services of CONTRACTOR. OWNER, at its option, may proceed with negotiation with surety for completion of the Work. Alternatively, OWNER may under these circumstances exclude CONTRACTOR from the site and take possession of the Work (without liability to CONTRACTOR for trespass or conversion), incorporate in the Work all materials and equipment stored at the site or for which OWNER has paid CONTRACTOR but which are stored elsewhere, and finish the Work as OWNER may deem expedient. In such case CONTRACTOR shall not be entitled to receive any further payment until the Work is finished. If the unpaid balance of the Contract Amount exceeds all claims, costs, losses and damages sustained by OWNER arising out of or resulting from completing the Work, such excess will be paid to CONTRACTOR. If such claims, costs, losses and damage exceed such unpaid balance, CONTRACTOR or surety shall pay the difference to OWNER. In the event that a termination for cause is found to be wrongful, the termination shall be converted to a termination without cause as set forth in Section 15.2 and CONTRACTOR'S remedy for wrongful termination is limited to the recovery of the payments permitted for termination without cause as set forth in Section 15.2.

15.3.2 Where CONTRACTOR's services have been so terminated by OWNER, the termination will not affect any rights or remedies of OWNER against CONTRACTOR and surety then existing or which may thereafter accrue. Any retention or payment of moneys due CONTRACTOR by OWNER will not release CONTRACTOR from liability. In the event OWNER terminates Contract with cause, OWNER may reject any and all Bids submitted by CONTRACTOR for up to three (3) years after the date of such termination. These sanctions will be administered in accordance with the City of Austin Purchasing Office Probation, Suspension, and Debarment Procedures for Vendors, which include notice and an opportunity for a hearing.

15.4 CONTRACTOR May Stop Work or Terminate: If through no act or fault of CONTRACTOR, the Work is suspended for a period of more than ninety (90) calendar days by OWNER or under an order of court or other public authority, or (except during disputes) Owner's Representative fails to forward for processing any mutually acceptable Application for Payment within thirty (30) calendar days after it is submitted, or (except during disputes) OWNER fails for sixty (60) calendar days after it is submitted to pay CONTRACTOR any sum finally determined by OWNER to be due, then CONTRACTOR may, upon seven (7) calendar days' Written Notice to OWNER, and provided OWNER does not remedy such suspension or failure within that time, terminate the Agreement and recover from OWNER payment on the same terms as provided in paragraph 15.2. In lieu of terminating the Agreement and without prejudice to any other right or remedy, if (except during disputes) Owner's Representative has failed to forward for processing any mutually acceptable Application for Payment within thirty (30) calendar days after it is submitted, or (except during disputes) OWNER has failed for sixty (60) calendar days after it is submitted to pay CONTRACTOR any sum finally determined by OWNER to be due, CONTRACTOR may upon seven (7) calendar days' Written Notice to OWNER stop the Work until payment of all such amounts due CONTRACTOR, including interest thereon. The provisions of this paragraph 15.4 are not intended to preclude CONTRACTOR from making a Claim under Articles 11 and 12 for an increase in Contract Amount or Contract Times or otherwise for expenses or damage directly attributable to CONTRACTOR's stopping Work as permitted by this paragraph.

15.5 Discretionary Notice to Cure: In its complete discretion, OWNER may, but is not required to, provide a Notice to Cure to CONTRACTOR and its surety to cure an event of default described above and/or an anticipatory breach of contract and, if required by OWNER, to attend a meeting with OWNER, regarding the Notice to Cure, the event of default, and/or the anticipatory breach of contract. The Notice to Cure will set forth the time limit in which the cure is to be completed or commenced and diligently prosecuted. Upon receipt of any Notice to Cure, CONTRACTOR shall prepare a report describing its program and measures to affect the cure of the event of default and/or anticipatory breach of contract within the time required by the Notice to Cure. The CONTRACTOR'S report must be delivered to OWNER at least three (3) days prior to any requested meeting with the OWNER and surety.

15.6 Bankruptcy: If CONTRACTOR declares bankruptcy or is adjudged bankrupt or makes an assignment for the benefit of creditors or if a receiver is appointed for the benefit of creditors or if a receiver is appointed by reason of CONTRACTOR'S insolvency, CONTRACTOR may be unable to perform this Contract in accordance with the Contract requirements. In such an event, OWNER may demand CONTRACTOR or its successor in interest provide OWNER with adequate assurance of CONTRACTOR'S future performance in accordance with the terms and conditions of the Contract. If CONTRACTOR fails to provide adequate assurance of future performance to OWNER'S reasonable satisfaction within ten (10) days of such a request, OWNER may terminate the CONTRACTOR'S services for cause or without cause, as set forth above. If CONTRACTOR fails to provide timely adequate assurance of its performance and actual performance, OWNER may prosecute the Work with its own forces or with other contractors on a time and material or other appropriate basis and the cost of which will be charged against the Contract balance.

15.7 Duty to Mitigate: In the event of any termination or suspension under this Contract, the CONTRACTOR agrees to and shall take all reasonable actions to mitigate its damages and any and all claims which may be asserted against the OWNER.

15.8 Responsibility during Demobilization: While demobilizing, the CONTRACTOR will take all necessary and reasonable actions to preserve and protect the Work, the site and other property of the OWNER or others at the site.

ARTICLE 16 - DISPUTE RESOLUTION

16.1 Filing of Claims:

16.1.1 Claims arising from the circumstances identified in paragraphs 3.2, 4.1, 4.2.2, 4.2.4, 6.4.2, 6.11.5.2, 6.17, 7.5, 8.6, 9.5, 10.4.2, 13.4.3, 13.8, 13.9, 15.1, 15.2, 15.3, or 15.4, or other occurrences or events, shall be made by Written Notice delivered by the party making the Claim to the other party within thirty (30) calendar days after the start of the occurrence or event giving rise to the Claim and stating the general nature of the Claim. Notice of the amount of the Claim with supporting data shall be delivered in writing within thirty (30) calendar days after Written Notice of Claim is delivered by claimant and shall represent that the adjustment claimed covers all known amounts and/or extensions of time to which claimant is entitled.

16.1.2 Within thirty (30) calendar days of receipt of notice of the amount of the Claim with supporting data, Owner's Representative and CONTRACTOR shall meet to discuss the Claim, after which an offer of settlement or notification of no settlement offer will be made to claimant. If claimant is not satisfied with the proposal presented, claimant shall have thirty (30) calendar days in which to: (i)

submit additional supporting data requested by the other party; (ii) modify the initial Claim; or (iii) request Alternative Dispute Resolution.

16.2 Alternative Dispute Resolution:

16.2.1 If a dispute exists concerning a Claim, the parties agree to use the following procedure prior to pursuing any other available remedies. OWNER reserves the right to include the E/A as a party.

16.2.2 Negotiating with Previously Uninvolved Personnel: Either party may make a written request for a meeting to be held between representatives of each party within fourteen (14) Calendar Days of the request or such later period that the parties may agree to. Each party shall endeavor to include, at a minimum, one (1) previously uninvolved senior level decision maker (an owner, officer, or employee of each organization) empowered to negotiate on behalf of their organization. If a previously uninvolved senior level decision maker is unavailable due to the size of the CONTRACTOR'S organization or any other reason, the CONTRACTOR shall nonetheless provide an appropriate senior level decision maker for the meeting. The purpose of this and any subsequent meetings will be good faith negotiations of the matters constituting the dispute. Negotiations shall be concluded within thirty (30) Calendar Days of the first meeting, unless mutually agreed otherwise. This step may be waived by a written agreement signed by both parties, in which event the parties may proceed directly to mediation as described below.

16.2.3 Mediation:

.1 If the procedure described in 16.2.2 proves unsuccessful or is waived pursuant to its terms, the parties shall initiate the mediation process. OWNER and CONTRACTOR agree to select within thirty (30) calendar days a mediator trained in mediation skills, to assist with resolution of the dispute. OWNER and CONTRACTOR agree to act in good faith in the selection of the mediator and to give consideration to qualified individuals nominated to act as mediator. Nothing in this agreement prevents the parties from relying on the skills of a person who also is trained in the subject matter of the dispute and/or a contract interpretation expert. Should the parties fail to agree on a mediator within thirty (30) calendar days of initiation of the mediation process, the parties agree to ask the Travis County Dispute Resolution Center to select a qualified individual, which selection shall be binding on the parties.

.2 Mediation is a forum in which an impartial person, the mediator, facilitates communication between parties to promote reconciliation, settlement, or understanding among them. The parties hereby agree that mediation, at a minimum, shall provide for (i) conducting an on-site investigation, if appropriate, by the mediator for fact gathering purposes, (ii) a meeting of all parties for the exchange of points of view and (iii) separate meetings between the mediator and each party to the dispute for the formulation of resolution alternatives. The parties agree to participate in mediation in good faith for up to thirty (30) calendar days from the date of the first mediation session, unless mutually agreed otherwise. Should the parties fail to reach a resolution of the dispute through mediation, then each party is released to pursue other remedies available to them.

16.3 Resolution of Disputes between Contractor and Subcontractor or Supplier: If a dispute exists concerning a claim between a CONTRACTOR and a Subcontractor or Supplier, the CONTRACTOR agrees to participate with such Subcontractor and/or Supplier in a

process substantially paralleling the steps set out in paragraphs 16.1 and 16.2 above, including the delivery of written notices, submission of supporting data, negotiation with previously uninvolved personnel, and, if such alternative dispute resolution process is unsuccessful, mediation between the parties to the claim. If the CONTRACTOR and Subcontractor or Supplier agreement provides an alternative dispute resolution process, which provides substantially equivalent rights to those set forth herein, it may be followed, unless the CONTRACTOR and affected Subcontractor or Supplier agree to follow the process outlined above. The OWNER is not a party to the alternative dispute resolution process between the CONTRACTOR and Subcontractor or Supplier and will not pay any costs incurred in the process. Each party will be responsible for its own expenses incurred in the process, which will include an equal share of the mediation expenses, unless otherwise determined by the mediator. NOTICE: THE PROCESS SET FORTH HEREIN IS NOT A SUBSTITUTE FOR THE STATUTORY PAYMENT BOND CLAIM PROCESS.

16.4 Claim Calculation:

16.4.1 Delay Claims: The intent of paying for delay damages is to reimburse the CONTRACTOR for actual expense arising out of a compensable delay. No profit or force account markups, other than labor burden, will be allowed for delay claims by the CONTRACTOR seeking reimbursement for expenses arising out of an alleged event of delay. No consequential damages will be allowed to the CONTRACTOR in connection with any claimed delays. If the CONTRACTOR requests compensation for delay damages and the delay is determined to be compensable, then standby equipment costs and project overhead compensation will be based on the duration of the compensable delay and the following:

.1 Standby equipment costs will not be allowed during periods when the equipment would have otherwise been idle. Standby equipment time will not exceed more than eight (8) hours per twenty-four (24) hour day, forty (40) hours per week, and one hundred seventy-six (176) hours per month. Standby equipment costs will be paid at 50 percent (50%) of the applicable Rental Rate Blue Book rates and calculated by dividing the monthly rate by one hundred seventy-six (176), multiplying the result by the number of standby hours and multiplying that number by the regional adjustment factor and the rate adjustment factor contained in the Blue Book. Operating costs will not be allowed.

.2 Project overhead will be determined from actual costs that the CONTRACTOR will be required to document. Project overhead is defined as the administrative and supervisory expenses incurred at the work site and will not include home office overhead.

16.4.2 General: Except as limited with respect to delay claims, as set forth above, the criteria set forth in Section 11.4.1 may be used as a basis to calculate an adjustment in the Contract Amount in the resolution of a claim, provided that there will be no compensation for home office overhead.

16.5 MBE/WBE Program Progressive Sanctions: CONTRACTOR is subject to progressive sanctions for failure of CONTRACTOR to comply with Austin City Code, Chapter 2-9A, as amended: "Minority-owned and Women-owned Business Enterprise Procurement Program." Available sanctions for Program violations are set forth in Program rules adopted by the Small and Minority Business Resources Department (SMBR), as amended, and may include the following progressive sanctions for Program violations within a rolling 24-month period: (i) a period of probation for up to six (6) months for the first violation (ii) a period of suspension from bidding for up to 24 months for the second violation, and (iii) a period of debarment for up to five (5) years for the third violation. If the CONTRACTOR engages in

more than one of the violations listed below at any given time, OWNER has the discretion to determine whether such actions should be counted as multiple violations of the MBE/WBE Ordinance. Program violations include:

.1 providing false or misleading information to the OWNER in connection with the submission of a Bid, responses to request for qualifications or Proposals, Good Faith Efforts documentation, post award compliance or other Program operations;

.2 substituting M/WBE Subcontractors without first receiving approval for such substitutions;

.3 failure to comply with the approved Compliance Plan without an approved request for a change, an approved Change Order or other approved change to the Contract;

.4 violation of any other provision of the "Minority-owned and Women-owned Business Enterprise Procurement Program";

.5 providing false or misleading information to the OWNER in connection with an application for or challenge to certification, recertification or decertification as a MBE/WBE; and

.6 bid shopping.

The Progressive Sanctions will be administered in accordance with the City of Austin Purchasing Office Probation, Suspension, and Debarment Procedures for Vendors, which includes notice and an opportunity for a hearing.

ARTICLE 17 – MISCELLANEOUS

17.1 Venue: In the event of any suit at law or in equity involving the Contract, venue shall be exclusively in Travis County, Texas and the laws of the State of Texas shall apply to the interpretation and enforcement of the Contract.

17.2 Extent of Agreement: This Contract represents the entire and integrated agreement between the OWNER and CONTRACTOR with respect to the subject matter hereof and supersedes all prior negotiations, representations or agreements, either written or oral.

17.3 Cumulative Remedies: The rights and remedies available to the parties are not to be construed in any way as a limitation of any rights and remedies available to any or all of them which are otherwise imposed or available by laws or regulations, by special warranty or guarantees or by other provisions of the Contract Documents, and the provisions of this paragraph will be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right and remedy to which they apply. Specifically, the OWNER is not required to only assess liquidated damages, and OWNER may elect to pursue its actual damages resulting from the failure of the CONTRACTOR to complete the Work in accordance with the requirements of the Contract Documents.

17.4 Severability: If any word, phrase, clause, sentence or provision of the Contract, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, invalid or unenforceable, that finding shall only effect such word, phrase, clause, sentence or provision, and such finding shall not affect the remaining portions of this

Contract; this being the intent of the parties in entering into the Contract; and all provisions of the Contract are declared to be severable for this purpose.

17.5 Independent Contractor: The Contract shall not be construed as creating an employer/employee relationship, a partnership, or a joint venture. CONTRACTOR is an independent contractor and CONTRACTOR's services shall be those of an independent contractor. CONTRACTOR agrees and understands that the Contract does not grant any rights or privileges established for employees of OWNER.

17.6 Prohibition of Gratuities: OWNER may, by Written Notice to CONTRACTOR, terminate the Contract without liability if is determined by OWNER that gratuities were offered or given by CONTRACTOR or any agent or representative of CONTRACTOR to any officer or employee of OWNER with a view toward securing the Contract or securing favorable treatment with respect to the awarding or amending or the making of any determinations with respect to the performing of such Contract. In the event the Contract is terminated by OWNER pursuant to this provision, OWNER shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by CONTRACTOR in providing such gratuities.

17.7 Prohibition Against Personal Interest in Contracts: No officer, employee, independent consultant, or elected official of OWNER who is involved in the development, evaluation, or decision-making process of the performance of any solicitation shall have a financial interest, direct or indirect, in the Contract resulting from that solicitation. Any violation of this provision, with the knowledge, expressed or implied, of CONTRACTOR shall render the Contract voidable by OWNER.

17.8 OWNER'S Right to Audit:

17.8.1 Records means all records generated by or on behalf of CONTRACTOR and each Subcontractor and Supplier of CONTRACTOR, whether paper, electronic, or other media, which are in any way related to performance of or compliance with this Contract, including, without limitation:

.1 accounting records;

.2 written policies and procedures;

.3 subcontract files (including proposals of successful and unsuccessful Bidders, Bid recaps, etc.);

.4 original estimates and estimating work sheets;

.5 correspondence;

.6 Change Order files (including documentation covering negotiated settlements);

.7 back charge logs and supporting documentation;

.8 general ledger entries detailing cash and trade discounts earned, insurance rebates and dividends;

.9 lump sum agreements between CONTRACTOR and any Subcontractor or Supplier;

.10 records necessary to evaluate: Contract compliance, Change Order pricing, and any Claim submitted by CONTRACTOR or any of its payees; and

.11 any other CONTRACTOR record that may substantiate any charge related to this Contract.

17.8.2 CONTRACTOR shall allow OWNER'S agent or its authorized representative to inspect, audit, and/or reproduce, or all three, all Records generated by or on behalf of CONTRACTOR and each Subcontractor and Supplier, upon OWNER'S written request. Further, CONTRACTOR shall allow OWNER'S agent or authorized representative to interview any of CONTRACTOR'S employees, all Subcontractors and all Suppliers, and all their respective employees.

17.8.3 CONTRACTOR shall retain all its Records, and require all its Subcontractors and Suppliers to retain their respective Records, during this Contract and for three (3) years after final payment, until all audit and litigation matters that OWNER has brought to the attention of CONTRACTOR are resolved, or as otherwise required by law, whichever is longer. OWNER'S right to inspect, audit, or reproduce Records, or interview employees of CONTRACTOR or its respective Subcontractors or Suppliers exists during this Contract, and for three (3) years after final payment, until all audit and litigation matters that OWNER has brought to CONTRACTOR'S attention are resolved, or as otherwise required by law, whichever is longer, and at no cost to OWNER, either from CONTRACTOR or any of its Subcontractors or Suppliers that may furnish Records or make employees available for interviewing.

17.8.4 CONTRACTOR must provide sufficient and accessible facilities during its normal business hours for OWNER to inspect, audit, or reproduce Records, or all three, and to interview any person about the Records.

17.8.5 CONTRACTOR shall insert these requirements in each written contract between CONTRACTOR and any Subcontractor or Supplier and require each Subcontractor and Supplier to comply with these provisions.

17.9 Survival: The terms and conditions of this Contract, which contemplate a period of time beyond completion or termination will survive such completion or termination and not be merged therein or otherwise terminated.

17.10 No Waiver: The waiver of any provision of this Contract will not be deemed to be a waiver of any other provision of this Contract. No waiver of any provision of this Contract will be deemed to constitute a continuing waiver unless expressly provided in writing, nor will a waiver of any default be deemed a waiver of any subsequent defaults of the same type. The failure at any time to enforce this Contract, whether the default is known or not, shall not constitute a waiver or estoppel of the right to do so.

17.11 Conditions Precedent to Right to Sue: Notwithstanding anything herein to the contrary, the CONTRACTOR will have at least 90 days to give notice of a claim for damages as a condition precedent to the right to sue on the Contract, subject to the contractual claim and alternative dispute resolution processes set forth herein.

17.12 Waiver of Trial by Jury: OWNER and CONTRACTOR agree that they have knowingly waived the right to trial by jury and have instead agreed that, in the event of any litigation arising out of or connected to this Contract, to proceed with a trial before the court, unless both parties subsequently agree otherwise in writing.

17.13 Contractor Evaluation: The Owner will review and evaluate the Contractor's Work and performance on the Project and provide the Contractor with a written Contractor Evaluation Report in accordance with City of Austin Administrative Rule R161-13.37. Rule R161-13.37 provides an appeal process.

http://www.austintexas.gov/department/contract-management

End

The Supplemental General Conditions contained herein amend or supplement the General Conditions, Section 00700.

ARTICLE 1 - DEFINITIONS

1.11 Contract: Add the following: "This Contract is an indefinite delivery/indefinite quantity (IDIQ) service contract that contains an indefinite quantity of Work and components of the Work and indefinite delivery dates.

1.12 Contract Amount: Add the following: "The final Contract Amount is equal to the aggregate of all executed Work Assignments not to exceed the amount authorized by Austin City Council."

1.18 Drawings: Add the following: "Drawings for Work Assignments to be completed during this Contract period are not included in the Bid Documents. Drawings for individual Work Assignments will be provided to the CONTRACTOR with Work Assignments throughout the Contract period as Work Assignments are issued on an as-needed basis."

1.20 Engineer/Architect (E/A): Add the following:

"Name: Mark M. Mikol, P.E.

Address: 3907 S. Industrial Dr., 2nd Floor

Austin, TX 78744"

Add the following definitions:

1.51 Work Assignment: " The OWNER will initiate work under this IDIQ contract as individual Work Assignments. Each individual Work Assignment will define the scope, identify the subcontractors and confirm the Work Assignment Time for the specific Work Assignment to be performed. Given the context of the scope of Work under this Contract and the method of determining the Contract Amount and Work Assignment Time for each Work Assignment, each Work Assignment will be considered to be the equivalent of a negotiated Change Order based upon the unit prices and other applied factors."

1.52 Work Assignment Time: The duration of time to complete each Work Assignment. The Work Assignment Time will be included in each Work Assignment and must be completed within that time. For all Work Assignments not completed within the Work Assignment Time, liquidated damages will be assessed per work or calendar day and will be calculated separately for each Work Assignment.

ARTICLE 2 – PRELIMINARY MATTERS

2.3 Commencement of Contract Time: Notice To Proceed ("NTP"): Delete in its entirety and replace with the following:

"The date that the Work Assignment is signed by the OWNER and delivered to the CONTRACTOR with an accompanying Notice to Proceed will be the commencement date for the purposes of the measurement of Work Assignment Time for that individual Work Assignment."

"The OWNER will issue a written NTP for each Work Assignment describing the Work to be performed and the time allowed for the completion of the Work, as described in Section 01010, Summary of Work. CONTRACTOR agrees to commence each Work Assignment within the time set forth in subsequently issued NTP describing such Work Assignment and to substantially complete such Work Assignment within the time set forth in such NTP. Work Assignment Time for specific Work Assignments is of the essence and all Work shall be completed within the stated duration of each assignment."

2.4 Before Starting Construction:

Delete 2.4.2.1 and replace with the following (changes to the original text are identified by underlining):

"**.1** to the extent not sufficiently set forth in the NTP and as required by OWNER's Representative, a preliminary progress schedule indicating the times (number of days or dates) for starting and completing the various stages of the Work, including any Milestones specified in the Contract Documents, <u>identifying the critical path for completing the Work,</u> identifying when all Subcontractors will be utilized, and taking into consideration any limitations on Working Hours;"

<u>ARTICLE 3 – CONTRACT DOCUMENTS: INTENT, AMENDING, REUSE</u>

3.1 Intent: Add the following:

"3.1.3 Federal Aid - Assurances: In the event that a Work Assignment is federally funded, the federal contracting provisions set forth in Section 00810A, and any additional requirements from the funding agency, will be required contract provisions and will be part of the Work Assignment for all purposes. The provisions of Section 00810A are intended to supplement and supersede and be controlling over the City's standard 00700 General Conditions and other Contract Document provisions to the extent of any conflict with Section 00810A. The CONTRACTOR/Bidder acknowledges and agrees that CONTRACTOR/Bidder has the obligation to comply with the attached federal-aid assurances and contract provisions. This Section 3.1.3 will constitute the CONTRACTOR's/Bidder's accepted proposal and agreement with respect to the attached federal-aid assurances and contract provisions.

In the event of any ambiguity or inconsistency between the Section 00810A federal aid assurances and the Contract Documents, the federal provision will control to the extent consistent with the overall intent of the respective Work Assignment. Notice of a federal award will be specified in the Work Assignment. The prevailing wage rates, Section 00830, will be replaced with the current wage rates at the time of the federal assignment. Additional federal requirements, if applicable, will be provided to CONTRACTOR with the respective Work Assignment. If the CONTRACTOR/Bidder has any questions as to the applicability of a Section 00700 or Section 00810A provision or any federal requirement, the CONTRACTOR/Bidder shall submit a request for information to the OWNER. The OWNER will have three (3) business days in which to respond."

ARTICLE 4 - AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; REFERENCE POINTS

4.1 Availability of Lands: Add the following:

"CONTRACTOR shall contact OWNER's Transportation Department to obtain a Temporary Use of Right-of-Way Permit prior to beginning construction on any sidewalk/driveway or occupying any parking area/meters within the public right-of-ways."

ARTICLE 5 - BONDS AND INSURANCE

"5.3 Insurance:

5.3.1 CONTRACTOR Provided Insurance

5.3.1.1 General Requirements.

.1 CONTRACTOR shall carry insurance in the types and amounts indicated below for the duration of the Contract, which shall include items owned by OWNER in the care, custody and control of CONTRACTOR prior to and during construction and warranty period.

.2 CONTRACTOR must complete and forward the Certificate of Insurance, Section 00650, to OWNER before the Contract is executed as verification of coverage required below. CONTRACTOR shall not commence Work until the required insurance is obtained and until such insurance has been reviewed by OWNER. Approval of insurance by OWNER shall not relieve or decrease the liability of CONTRACTOR hereunder and shall not be construed to be a limitation of liability on the part of CONTRACTOR. CONTRACTOR must also complete and forward the Certificate of Insurance, Section 00650, to OWNER whenever a previously identified policy period has expired as verification of continuing coverage.

.3 CONTRACTOR's insurance coverage is to be written by companies authorized to do business in the State of Texas at the time the policies are issued and shall be written by companies with A.M. Best ratings of B+VII or better, except for hazardous material insurance which shall be written by companies with A.M. Best ratings of A- or better.

.4 All endorsements naming the OWNER as additional insured, waivers, and notices of cancellation endorsements as well as the Certificate of Insurance shall indicate: City of Austin, Capital Contracting Office, P.O. Box 1088, Austin, Texas 78767.

.5 The "other" insurance clause shall not apply to the OWNER where the OWNER is an additional insured shown on any policy. It is intended that policies required in the Contract, covering both OWNER and CONTRACTOR, shall be considered primary coverage as applicable.

.6 If insurance policies are not written for amounts specified below, CONTRACTOR shall carry Umbrella or Excess Liability Insurance for any differences in amounts specified. If Excess Liability Insurance is provided, it shall follow the form of the primary coverage.

.7 OWNER shall be entitled, upon request and without expense, to receive certified copies of policies and endorsements thereto and may make any reasonable

requests for deletion or revision or modification of particular policy terms, conditions, limitations, or exclusions except where policy provisions are established by law or regulations binding upon either of the parties hereto or the underwriter on any such policies.

.8 OWNER reserves the right to review the insurance requirements set forth during the effective period of this Contract and to make reasonable adjustments to insurance coverage, limits, and exclusions when deemed necessary and prudent by OWNER based upon changes in statutory law, court decisions, the claims history of the industry or financial condition of the insurance company as well as CONTRACTOR.

.9 CONTRACTOR shall not cause any insurance to be canceled nor permit any insurance to lapse during the term of the Contract or as required in the Contract.

.10 CONTRACTOR shall be responsible for premiums, deductibles and self-insured retentions, if any, stated in policies. All deductibles or self-insured retentions shall be disclosed on the Certificate of Insurance.

.11 CONTRACTOR shall provide OWNER thirty (30) days written notice of erosion of the aggregate limits below occurrence limits for all applicable coverages indicated within the Contract.

.12 If OWNER owned property is being transported or stored off-site by CONTRACTOR, then the appropriate property policy will be endorsed for transit and storage in an amount sufficient to protect OWNER's property.

.13 The insurance coverages required under this contract are required minimums and are not intended to limit the responsibility or liability of CONTRACTOR.

5.3.1.2 Business Automobile Liability Insurance. Provide coverage for all owned, non-owned and hired vehicles. The policy shall contain the following endorsements in favor of OWNER:

a) Waiver of Subrogation endorsement CA 0444;
b) 30-day Notice of Cancellation endorsement CA 0244; and
c) Additional Insured endorsement CA 2048.

Provide coverage in the following types and amounts:

.1 A minimum combined single limit of $500,000 per occurrence for bodily injury and property damage. Alternate acceptable limits are $250,000 bodily injury per person, $500,000 bodily injury per occurrence and at least $100,000 property damage liability each accident.

5.3.1.3 Workers' Compensation And Employers' Liability Insurance. Coverage shall be consistent with statutory benefits outlined in the Texas Workers' Compensation Act (Section 401). CONTRACTOR shall assure compliance with this Statute by submitting two (2) copies of a standard certificate of coverage (e.g. ACCORD form) to Owner's Representative for every person providing services on the Project as acceptable proof of coverage. The Certificate of Insurance, Section 00650, must be presented as evidence of coverage for CONTRACTOR. CONTRACTOR's policy shall apply to the State of Texas and include these endorsements in favor of OWNER:

a) Waiver of Subrogation, form WC 420304; and
b) 30 day Notice of Cancellation, form WC 420601.

The minimum policy limits for Employers' Liability Insurance coverage shall be as follows:

.1 $100,000 bodily injury per accident, $500,000 bodily injury by disease policy limit and $100,000 bodily injury by disease each employee.

5.3.1.4 Commercial General Liability Insurance. The Policy shall contain the following provisions:

a) Contractual liability coverage for liability assumed under the Contract and all contracts relative to this Project.
b) Completed Operations/Products Liability for the duration of the warranty period.
c) Explosion, Collapse and Underground (X, C & U) coverage.
d) Independent Contractors coverage (Contractors/ Subcontractors work).
e) Aggregate limits of insurance per project, endorsement CG 2503.
f) OWNER listed as an additional insured, endorsements CG 2010 and CG 2037 or equivalent.
g) 30 day notice of cancellation in favor of OWNER, endorsement CG 0205.
h) Waiver of Transfer of Recovery Against Others in favor of OWNER, endorsement CG 2404.

Provide coverages A&B with minimum limits as follows:

.1 A combined bodily injury and property damage limit of $500,000 per occurrence.

5.3.1.5 Professional Liability Insurance. For Work which requires professional engineering or professional survey services to meet the requirements of the Contract, including but not limited to excavation safety systems, traffic control plans, and construction surveying, the CONTRACTOR or Subcontractors, responsible for performing the professional services shall provide Professional Liability Insurance with a minimum limit of $500,000 per claim and in the aggregate to pay on behalf of the assured all sums which the assured shall become legally obligated to pay as damages by reason of any negligent act, error, or omission committed with respect to all professional services provided in due course of the Work of this Contract. CONTRACTOR's policy shall include the following endorsement in favor of the OWNER:

a) 30 day Notice of Cancellation endorsement CA 0244

ARTICLE 6 - CONTRACTOR'S RESPONSIBILITIES

6.6 Permits, Fees: Add the following:

"OWNER will obtain and pay for the following permits, licenses and/or fees:

.1 Texas Department of Transportation permit for Work in State right-of-way.

.2 Travis County permit for Work in Travis County right-of-way."

6.11 Safety and Protection: Add the following to paragraph 6.11.3:

".1 At the minimum, the safety representative will be certified in personal protective equipment, hazard communication, demolition and blasting, trench/excavation, hand and power tools, welding/cutting,

cranes/derricks/hoists/conveyors/, scaffolding, confined space, CPR and first aid."

ARTICLE 10 – CHANGE IN THE WORK: Add the following:

10.6 Actual Quantities:

This Contract is a unit-price IDIQ contract. Final quantities of materials and items of Work will vary depending upon the subsequently issued Work Assignments and actual conditions encountered through the term of the Contract. No "change" will occur unless the total Contract Amount is increased. The Contract Amount is not a guarantee of an amount of available Work. The amount of Work will be dependent upon subsequently issued Work Assignments and actual site conditions. Reduction of the Units used from those shown in the 00300U-IDIQ Bid Form or the total Contract Amount will not constitute a change. The optional terms are dependent upon funding by the City of Austin City Council for each such each year. In addition, the actual quantities to be used are unknown and depend upon actual site conditions and quantities of specific items will vary from those used in the bid. CONTRACTOR will accept and perform the quantities of Work necessary to complete individual Work Assignments, as determined by the OWNER.

ARTICLE 11 - CHANGE OF CONTRACT AMOUNT

11.4 Determination of Value of Work: Add the following to paragraph 11.4.1.2:

".2 In the case of a Change Order determined by a mutually agreed lump sum properly itemized and supported by sufficient substantiating data, including documentation by subcontractors performing the work, to permit evaluation, use the following method:

COMPONENT ONE

1a - the cost of labor (base rate, including fringe benefits),

1b - the cost of material and equipment to be incorporated in the Work, and

1c - the cost of tools, equipment and facilities necessary to accomplish the Work described in the change.

COMPONENT TWO - The cost of payroll taxes and insurance, Liability and Builder's Risk Insurance, shall be calculated as follows:

2a - Payroll taxes and Workers' Compensation Insurance - 25% of payroll (Item 1a)

2b - Liability and Builder's Risk Insurance -2% of "total costs" (Items 1a, 1b, 1c, and 2a)

COMPONENT THREE - Overhead and profit shall be calculated as follows:

3a - For Subcontractors and for those portions of the Work performed by CONTRACTOR'S own forces:

- 15% of the first $10,000.00 of costs and 10% of the balance over $10,000.00.
- ("costs" = Items 1a, 1b, and 1c, above, broken down into Contractor

and Subcontractor costs).

3b - For the CONTRACTOR for that portion of the Work performed by Subcontractors:

- 10% of the first $10,000.00 of the Subcontractor costs and 7.5% of the balance over $10,000.00.
- ("costs" = Items 1a, 1b, and 1c, above, broken down into Subcontractor costs)

COMPONENT FOUR - Bonds

Performance and Payment Bond according to the following table ("TOTAL COST" = Items 1a, 1b, 1c, 2a, 2b, 3a and 3b,):

DOLLAR VALUE OF CONTRACT			% OF TOTAL COST OF CHANGE ORDER ADDED FOR BOND EXPENSE
100,000	or	less	2.5
100,001	thr	500,000	1.5
500,001	thr	2,500,000	1.0
2,500,00	thr	5,000,000	0.75
5,000,00	thr	7,500,000	0.70
OVER 7,500,000			0.65

The total costs for the change, whether additive or deductive, shall be the sum total of COMPONENTS ONE - FOUR.

11.4 Determination of Value of Work: Add the following to paragraph to the end of the list:

".5 Contract Extension Price Adjustment:

The OWNER may exercise its option by notice to the successful bidder/CONTRACTOR prior to the expiration of the initial term. The unit prices bid by the successful bidder/CONTRACTOR shall remain firm throughout the initial term of the Contract. Bid prices may be adjusted for Contract extensions on the basis of an increase or decrease of the existing prices upwards or downwards in accordance with the 20 City average Engineering News Record Construction Cost Index (CCI) (at the time of the notice of contract extension) divided by the most current 20 City average Engineering News Record Construction Cost Index at the time of bid opening. The adjusted prices will be included in a change order and will remain firm throughout the Contract extension period. Upon receipt of the notice of the exercise of the option for an additional contract term by the OWNER, the CONTRACTOR must request a Bid price adjustment in writing or the then current Bid prices will remain in force and effect. The prevailing wage rates, Section 00830, will be replaced at the time of an adjusted bid increase with the then current prevailing wage rates."

Unit Price Work: Delete 11.6.1, 11.6.4, and 11.6.5 and replace with the following:

"11.6.1 While the Contract Documents provide that all or part of the Work is to be unit price Work, quantities used in 00300U-IDIQ are indefinite, and are

therefore not guaranteed, and are solely for the purpose of the evaluation and comparison of Bids. Determinations of the actual quantities and classifications of unit price work performed by CONTRACTOR will be made by OWNER's Representative. OWNER's Representative will review with CONTRACTOR the preliminary determinations on such matters before rendering a written decision thereon (by recommendation of an Application for Payment or otherwise)."

"11.6.4 Except as otherwise provided at the exercise of an additional one year option term, neither the OWNER nor CONTRACTOR may make any claim for adjustment in unit prices for differences in actual quantities relative to the bid quantities."

"11.6.5 Deleted."

ARTICLE 13 - TESTS AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK

13.7 Warranty Period: Add the following:

"**13.7.5** OWNER will utilize a "Warranty Item Form" (attached at the end of this Section) for the purpose of providing Written Notice of warranty defects to CONTRACTOR. CONTRACTOR shall date, sign, complete and return the form to OWNER when the defect is corrected, including such information on or attached to the form to describe the nature of the repairs or corrections that were made. If the defect cannot be corrected in seven (7) Calendar Days, CONTRACTOR shall provide a written explanation to the OWNER's Representative describing the repairs needed and the time required completing the repairs."

ARTICLE 14 - PAYMENTS TO CONTRACTOR AND COMPLETION

14.1 Application for Progress Payment: Add the following to the list of items required with applications for payment:

".6.4 Pre-Construction and Construction Progress Photos."

14.7 Substantial Completion:

Reference 14.7.1, and add the following provision:

"**14.7.1.1** For water and wastewater lines construction, Substantial Completion means that the Work, including all testing and disinfection, has been completed and accepted and the line(s) placed into service. A certificate of Substantial Completion will not be issued. Work that remains after Substantial Completion could include the final pavement of roadways, adjustment of structures to final grade and re-vegetation. Owner's Representative will issue a notice specifying what portion of the Work is partially completed for the

purpose of payment and what Work remains to be done on the portion being accepted as Substantially Complete. This subsection 14.7.1.1 changes the 00700 General Conditions definition of Substantial Completion."

Add the following:

"**14.7.3** Individual Work Assignments, as issued by the OWNER to the CONTRACTOR, will define Substantial Completion for individual projects."

14.8 Partial Utilization: Delete 14.8.1 and replace with the following (changes to the original text are identified by underlining):

".1 OWNER at any time may request CONTRACTOR to permit OWNER to use any such part of the Work which OWNER believes to be ready for its intended use and substantially complete. If CONTRACTOR agrees that such part of the Work is substantially complete, CONTRACTOR will certify to OWNER's Representative that such part of the Work is substantially complete and request OWNER's Representative to issue a <u>notice specifying what portion of the Work is substantially complete for the purpose of payment and what Work remains to be done on the portion being accepted</u>. CONTRACTOR at any time may notify OWNER's Representative that CONTRACTOR considers any such part of the Work ready for its intended use and substantially complete and request OWNER's Representative to issue a <u>notice specifying what portion of the Work is partially completed for the purpose of payment and what Work remains to be done on the portion being accepted</u>. The provisions of paragraphs 14.7.1 and 14.7.2 will apply with respect to <u>the notice specifying what portion of the Work is partially completed for the purpose of payment and what Work remains to be done on the portion being accepted.</u>"

WARRANTY ITEM NO. _____

(PROJECT NAME)

The General Conditions of the Contract require that Warranty Defects be corrected within 7 days after written notice is received.

TO: _____
contractor name address / telephone / fax / email

ATTENTION OF: _____

FROM: _____
project manager name / address / telephone / fax / email

PROJECT: _____
name / location / CIP ID number

END OF ONE YEAR WARRANTY:_____

SUBJECT: _____

[ ] If checked, the damage requires immediate attention. The CONTRACTOR has been called.
[ ] If checked, the Consultant has been asked to consult with the CONTRACTOR on the problem.

PLEASE CORRECT OR REPAIR THE FOLLOWING ITEM(S):

DATE OF REQUEST_____ **SIGNATURE** _____
Project Manager

xc:
[ ]_____Phone No._____ [
]_____Phone No. _____ [
]_____Phone No._____ [
]_____Phone No._____

RESPONSE FROM CONTRACTOR: DATE CORRECTION WAS MADE:_____

The CONTRACTOR must endeavor to correct the defect within 7 calendar days after written notice is given. If the defect cannot be corrected in that time, CONTRACTOR shall provide a written explanation to the OWNER's Representative describing the repairs needed and the time required to complete the repairs.

Description of corrections made:

DATE OF REPLY_____SIGNATURE_____

When the repair is complete, the CONTRACTOR should return a copy to each of the following:

[ ]_____Phone No._____ [
]_____Phone No. _____ [
]_____Phone No._____ [
]_____Phone No._____

Federal-aid assurances and contract provisions

NOTE: All documents referenced in Section 00810A are to be completed, signed and submitted post bid.

CERTIFICATION OF INTEREST IN OTHER BID PROPOSALS FOR THIS WORK

By signing this proposal, the bidding firm and the signer certify that the following information, as indicated by checking "Yes" or "No", below, is true, accurate, and complete.

A. Quotation(s) have been issued in this firm's name to other firm(s) interested in this work for consideration for performing a portion of this work.

_____ YES

_____ NO

B. If this proposal is the low bid, the bidder agrees to provide the following information prior to award of the contract.

1. Identify firms which bid as a prime contractor and from which the bidder received quotations for work on this project.

2. Identify all the firms which bid as a prime contractor to which the bidder gave quotations for work on this project.

DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352 (See reverse for public burden disclosure.)

1. Type of Federal Action: a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	2. Status of Federal Action: a. bid/offer/application b. initial award c. post-award	3. Report Type: a. initial filing b. grant For Material Change Only: year _____ quarter _____ date of last report _____
4. **Name and Address of Reporting Entity:** ☐ Prime ☐ Subawardee Tier _____, if known: **Congressional District**, if known:	5. **If Reporting Entity in No. 4 is Subawardee,** Enter Name and Address of Prime: **Congressional District**, if known:	
6. **Federal Department/Agency:**	7. **Federal Program Name/Description:** CFDA Number, if applicable: _____	
8. **Federal Action Number**, if known:	9. **Award Amount,** if known: $ _____	
10. a. Name and Address of Lobbying Entity (if individual, last name, first name, MI): (attach Continuation Sheet(s) SF-LLL-A, if necessary)	b. Individuals Performing Services (including address if different from No. 10a) (last name, first name, MI):	
11. Amount of Payment (check all that apply): $ _____ actual planned 12. Form of Payment (check all that apply) a. cash b. in-kind: specify: nature _____ value _____	13. Type of Payment (check all that apply): a. retainer b. one-time fee c. commission d. contingent fee e. deferred f. other; specify: _____	
14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11: (attach Continuation Sheet(s) SF-LLL-A, if necessary)		
15. **Continuation Sheet(s) SF-LLL-A attached:** ☐ Yes ☐ No		
16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities s a material representation of fact upon which reliance wasplaced by the tier above when thi transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No: _____ Date: _____	
FEDERAL USE ONLY	Authorized for Local Reproduction Standard Form - LLL	

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secure to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity or this covered Federal action.
4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressiona District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee", then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number, the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.
    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.
14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.
15. Check whether or not a SF-LLL-A continuation Sheet(s) is attached.
16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burdon for this collection of infromation is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments reguarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burdon, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503.

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB

0348-0046

CONTINUATION SHEET

Reporting Entity: _____ Page _____ of _____

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Standard Form - LLL-A

CONTRACTORS ASSURANCE

(Subcontracts - Federal Aid Projects)

By signing this proposal the contractor is giving assurances that all subcontract agreements of $10,000 or more on this project will incorporate the following provisions:

Special Provision	"Certification of Nondiscrimination in Employment"
Special Provision	"Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity (Executive Order 11246)"
Special Provision	"Standard Federal Equal Employment Opportunity Construction Contract Specifications (Executive Order 11246)"
Form FHWA 1273	"Required Contract Provisions Federal-aid Construction Contracts" (Form FHWA 1273 must also be physically attached to subcontracts and purchase orders of $10,000 or more)

Applicable "Wage Determination Decision"

CHILD SUPPORT STATEMENT FOR THE TEXAS DEPARTMENT OF TRANSPORTATION FOR NEGOTIATED CONTRACTS AND GRANTS

Under Family Code, Section 231.006, _____ *(name of individual)* certifies that _____ (*name of business*) _____ (*vendor #)* as of _____, 20___ (*date*) is eligible to receive a grant, loan, or payment and acknowledges that any contract may be terminated and payment may be withheld if this certification is inaccurate.

List below the name and social security number of the individual or sole proprietor and each partner, shareholder, or owner with an ownership interest of at least 25% of the business entity submitting the bid or application. This form must be updated whenever any party obtains a 25% ownership interest in the business entity.

***Name** (Please Print Legibly)*	***Social Security Number***

Family Code, Section 231.006, specifies that a child support obligor who is more than thirty (30) days delinquent in paying child support and a business entity in which the obligor is a sole proprietor, partner, shareholder, or owner with an ownership interest of at least 25% percent is not eligible to receive payments from state funds under a contract to provide property, materials, or services; or receive a state-funded grant or loan.

A child support obligor or business entity ineligible to receive payments described above remains ineligible until all arrearage have been paid or the obligor is in compliance with a written repayment agreement or court order as to any existing delinquency.

Except as provided by Family Code, Section 231.302(d), a social security number is confidential and may be disclosed only for the purposes of responding to a request for information from an agency operating under the provisions of Subchapters A and D of Title IV of the federal Social Security Act (42 U.S.C. Sections 601 et seq. and 651 et seq.)

The Texas Department of Transportation maintains the information collected through this article. With few exceptions, you are entitled on request to be informed about the information that we collect about you. Under Sections 552.021 and 552.023 of the Texas Government Code, you also are entitled to receive and review the information. Under Section 559.004 of the Government Code, you are also entitled to have us correct information about you that is incorrect.

- Please send this form to Texas Department of Transportation, Office of General Counsel (OGC) - Contract Services Section, 125 E. 11th Street, Austin, Texas 78701-2483.

BUSINESS OWNERSHIP

Contract Number:

Firm/Company Name:

BUSINESS OWNERSHIP

Section 231.006, Family Code, requires the Department to collect the names and social security number of individuals owning 25% or more of the business entity awarded this contract.

1. In the spaces below please provide the names and social security number of individuals owning 25% or more of the business

NAME	SOCIAL SECURITY NUMBER
_____	_____
_____	_____
_____	_____
_____	_____

2. Please check the box below if no individual owns 25% or more of the business.

[ ] No individual owns 25% or more of the business.

Except as provided by Section 231.302(d), Family Code, a social security number is confidential and may be disclosed only for the purpose of responding to a request for information from an agency operating under the provisions of Parts A and D to Title IV of the federal Social Security Act (42 USC Section 601-617 and 651-699).

Under section 231.006, Family Code, the Vendor or applicant certifies that the individual or business entity named in this contract, bid, or application is eligible to receive the specified grant, loan, or payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate.

The information must be provided and returned with the executed contract documents. Failure to furnish this information will result in the contract being declared in default and forfeiture of the proposal guaranty.

_____ _____
Signature Date

_____
Print Name

If this project is a Joint Venture, all parties to the joint venture must provide a completed form.

Non-Collusion Affidavit

The undersigned, as bidder, declares that the only person or parties interested in this proposal as principals are those named herein; that the Contractor has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the contract for the above-captioned highway work.

The undersigned affirms the truth and accuracy of this certification.

_____
Legal Firm Name

_____
Signature

Address: _____

_____

_____

Before me, the undersigned authority a Notary Public on this day personally appeared

_____who, being by me duly sworn, upon oath says that he/she is qualified and authorized to make this affidavit for and on behalf of

_____County(s), Texas, and is fully cognizant of the facts herein set out and affirms to the truth and accuracy of the certification made herein by signing above.

Subscribed and sworn to before me by the said (1)_____

this _____ day of _____,20___, to certify which witness my hand and seal of office.

_____
Notary Public in and for

_____County, Texas

BUY AMERICA

By signing this proposal, the bidding firm and the signer certify that they will comply with the latest provisions of Buy America as listed at 23 CFR 635.410. Use steel or iron materials manufactured in the United States except when:

- The cost of materials, including delivery, does not exceed 0.1% of the total Contract cost or $2,500, whichever is greater;
- The Contract contains an alternate Item for a foreign source steel or iron product and the Contract is awarded based on the alternate Item; or
- The materials are temporarily installed.

Provide a notarized original of the FORM D-9-USA-1 with the proper attachments for verification of compliance.

Manufacturing is any process that modifies the chemical content, physical shape or size, or final finish of a product. Manufacturing begins with initial melting and mixing and continues through fabrication (cutting, drilling, welding, bending, etc.) and coating (paint, galvanizing, epoxy, etc.).

FHWA-1273 -- Revised May 1, 2012

REQUIRED CONTRACT PROVISIONS
FEDERAL-AID CONSTRUCTION CONTRACTS

I. General
II. Nondiscrimination
III. Nonsegregated Facilities
IV. Davis-Bacon and Related Act Provisions
V. Contract Work Hours and Safety Standards Act Provisions
VI. Subletting or Assigning the Contract
VII. Safety: Accident Prevention
VIII. False Statements Concerning Highway Projects
IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
X. Compliance with Governmentwide Suspension and Debarment Requirements
XI. Certification Regarding Use of Contract Funds for Lobbying

ATTACHMENTS

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under Title 23 (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services). The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in bid proposal or request for proposal documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors.

II. NONDISCRIMINATION

The provisions of this section related to 23 CFR Part 230 are applicable to all Federal-aid construction contracts and to all related construction subcontracts of $10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR 60, 29 CFR 1625-1627, Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding $10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR 60, and 29 CFR 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), and Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR 230, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

1. Equal Employment Opportunity: Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under

this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract.

b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

2. EEO Officer: The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

3. Dissemination of Policy: All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. Recruitment: When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

5. Personnel Actions: Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. Training and Promotion:

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are

applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

8. Reasonable Accommodation for Applicants / Employees with Disabilities: The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment: The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors and suppliers and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

10. Assurance Required by 49 CFR 26.13(b):

a. The requirements of 49 CFR Part 26 and the State DOT's U.S. DOT-approved DBE program are incorporated by reference.

b. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the contracting agency deems appropriate.

11. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women;

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on Form FHWA-1391. The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor

will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of $10,000 or more.

The contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location, under the contractor's control, where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding $2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size). The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. Contracting agencies may elect to apply these requirements to other projects.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

1. Minimum wages

a. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH–1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b.(1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is utilized in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(3) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. The Wage and Hour Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or

will notify the contracting officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

c. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

d. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

2. Withholding

The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract, or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. Payrolls and basic records

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

b.(1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g. , the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH–347 is available for this purpose from the Wage and Hour Division Web site at http://www.dol.gov/esa/whd/forms/wh347instr.htm or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency..

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(i) That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH–347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(2) of this section.

(4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the FHWA may, after written notice to the contractor, the contracting agency or the State DOT, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and trainees

a. Apprentices (programs of the USDOL).

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

b. Trainees (programs of the USDOL).

Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration.

The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

d. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

6. Subcontracts. The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

7. Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility.

a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

The following clauses apply to any Federal-aid construction contract in an amount in excess of $100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

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

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1.) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.

3. Withholding for unpaid wages and liquidated damages. The FHWA or the contacting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2.) of this section.

4. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1.) through (4.) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1.) through (4.) of this section.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term "perform work with its own organization" refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions:

(1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
(2) the prime contractor remains responsible for the quality of the work of the leased employees;
(3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and
(4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract.

2. The contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

5. The 30% self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements.

VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C.3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

By submission of this bid/proposal or the execution of this contract, or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.
2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost $25,000 or more – as defined in 2 CFR Parts 180 and 1200.

1. Instructions for Certification – First Tier Participants:

a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the $25,000 threshold.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (https://www.epls.gov/), which is compiled by the General Services Administration.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

* * * * *

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

(2) Have not within a three-year period preceding this proposal 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;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

2. **Instructions for Certification - Lower Tier Participants:**

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost $25,000 or more - 2 CFR Parts 180 and 1200)

a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the $25,000 threshold.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (https://www.epls.gov/), which is compiled by the General Services Administration.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the

department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

* * * * *

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

* * * * *

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed $100,000 (49 CFR 20).

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

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

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

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

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed $100,000 and that all such recipients shall certify and disclose accordingly.

ATTACHMENT A - EMPLOYMENT AND MATERIALS PREFERENCE FOR APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS ROAD CONTRACTS

This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

2004 Specifications

SPECIAL PROVISION
000---003
Notice to All Bidders

To report bid rigging activities call:

1-800-424-9071

The U.S. Department of Transportation (DOT) operates the above toll-free “hotline” Monday through Friday, 8:00 a.m. to 5:00 p.m., eastern time. Anyone with knowledge of possible bid rigging, bidder collusion, or other fraudulent activities should use the “hotline” to report such activities.

The “hotline” is part of the DOT's continuing effort to identify and investigate highway construction contract fraud and abuse and is operated under the direction of the DOT Inspector General. All information will be treated confidentially and caller anonymity will be respected.

2004 Specifications

SPECIAL PROVISION
000---004
Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity (Executive Order 11246)

1. **General.** In addition to the affirmative action requirements of the Special Provision titled "Standard Federal Equal Employment Opportunity Construction Contract Specifications" as set forth elsewhere in this proposal, the Bidder's attention is directed to the specific requirements for utilization of minorities and females as set forth below.

2. **Goals.**

   a. Goals for minority and female participation are hereby established in accordance with 41 CFR 60-4.

   b. The goals for minority and female participation expressed in percentage terms for the Contractor’s aggregate work force in each trade on all construction work in the covered area, are as follows:

Goals for minority participation in each trade (percent)	Goals for female participation in each trade (percent)
See Table 1	

   c. These goals are applicable to all the Contractor’s construction work (whether or not it is Federal or federally assisted) performed in the covered area. If the Contractor performs construction work in a geographical area located outside of the covered area, it shall apply the goals established for such geographical area where the work is actually performed. With regard to this second area, the Contractor also is subject to the goals for both its federally involved and non-federally involved construction. The Contractor’s compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Standard Federal Equal Employment Opportunity Construction Contract Specifications Special Provision and its efforts to meet the goals. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority and female employees or trainees

from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

d. A contractor or subcontractor will be considered in compliance with these provisions by participation in the Texas Highway-Heavy Branch, AGC, Statewide Training and Affirmative Action Plan. Provided that each contractor or subcontractor participating in this plan must individually comply with the equal opportunity clause set forth in 41 CFR 60-1.4 and must make a good faith effort to achieve the goals set forth for each participating trade in the plan in which it has employees. The overall good performance of other contractors and subcontractors toward a goal in an approved plan does not excuse any covered contractor's or subcontractor's failure to make good faith efforts to achieve the goals contained in these provisions. Contractors or subcontractors participating in the plan must be able to demonstrate their participation and document their compliance with the provisions of this Plan.

3. Subcontracting. The Contractor shall provide written notification to the Department within 10 working days of award of any construction subcontract in excess of $10,000 at any tier for construction work under the contract resulting from this solicitation pending concurrence of the Department in the award. The notification shall list the names, address and telephone number of the subcontractor; employer identification number; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the contract is to be performed.

4. Covered Area. As used in this special provision, and in the contract resulting from this solicitation, the geographical area covered by these goals for female participation is the State of Texas. The geographical area covered by these goals for other minorities are the counties in the State of Texas as indicated in Table 1.

5. Reports. The Contractor is hereby notified that he may be subject to the Office of Federal Contract Compliance Programs (OFCCP) reporting and record keeping requirements as provided for under Executive Order 11246 as amended. OFCCP will provide direct notice to the Contractor as to the specific reporting requirements that he will be expected to fulfill.

3-5 000---004

Table 1

County	Goals for Minority Participation	County	Goals for Minority Participation
Anderson	22.5	Concho	20.0
Andrews	18.9	Cooke	17.2
Angelina	22.5	Coryell	16.4
Aransas	44.2	Cottle	11.0
Archer	11.0	Crane	18.9
Armstrong	11.0	Crockett	20.0
Atascosa	49.4	Crosby	19.5
Austin	27.4	Culberson	49.0
Bailey	19.5	Dallam	11.0
Bandera	49.4	Dallas	18.2
Bastrop	24.2	Dawson	19.5
Baylor	11.0	Deaf Smith	11.0
Bee	44.2	Delta	17.2
Bell	16.4	Denton	18.2
Bexar	47.8	DeWitt	27.4
Blanco	24.2	Dickens	19.5
Borden	19.5	Dimmit	49.4
Bosque	18.6	Donley	11.0
Bowie	19.7	Duval	44.2
Brazoria	27.3	Eastland	10.9
Brazos	23.7	Ector	15.1
Brewster	49.0	Edwards	49.4
Briscoe	11.0	Ellis	18.2
Brooks	44.2	El Paso	57.8
Brown	10.9	Erath	17.2
Burleson	27.4	Falls	18.6
Burnet	24.2	Fannin	17.2
Caldwell	24.2	Fayette	27.4
Calhoun	27.4	Fisher	10.9
Callahan	11.6	Floyd	19.5
Cameron	71.0	Foard	11.0
Camp	20.2	Fort Bend	27.3
Carson	11.0	Franklin	17.2
Cass	20.2	Freestone	18.6
Castro	11.0	Frio	49.4
Chambers	27.4	Gaines	19.5
Cherokee	22.5	Galveston	28.9
Childress	11.0	Garza	19.5
Clay	12.4	Gillespie	49.4
Cochran	19.5	Glasscock	18.9
Coke	20.0	Goliad	27.4
Coleman	10.9	Gonzales	49.4
Collin	18.2	Gray	11.0
Collingsworth	11.0	Grayson	9.4
Colorado	27.4	Gregg	22.8
Comal	47.8	Grimes	27.4
Comanche	10.9	Guadalupe	47.8

County	Goals for Minority Participation	County	Goals for Minority Participation
Hale	19.5	Lavaca	27.4
Hall	11.0	Lee	24.2
Hamilton	18.6	Leon	27.4
Hansford	11.0	Liberty	27.3
Hardeman	11.0	Limestone	18.6
Hardin	22.6	Lipscomb	11.0
Harris	27.3	Live Oak	44.2
Harrison	22.8	Llano	24.2
Hartley	11.0	Loving	18.9
Haskell	10.9	Lubbock	19.6
Hays	24.1	Lynn	19.5
Hemphill	11.0	Madison	27.4
Henderson	22.5	Marion	22.5
Hidalgo	72.8	Martin	18.9
Hill	18.6	Mason	20.0
Hockley	19.5	Matagorda	27.4
Hood	18.2	Maverick	49.4
Hopkins	17.2	McCulloch	20.0
Houston	22.5	McLennan	20.7
Howard	18.9	McMullen	49.4
Hudspeth	49.0	Medina	49.4
Hunt	17.2	Menard	20.0
Hutchinson	11.0	Midland	19.1
Irion	20.0	Milam	18.6
Jack	17.2	Mills	18.6
Jackson	27.4	Mitchell	10.9
Jasper	22.6	Montague	17.2
Jeff Davis	49.0	Montgomery	27.3
Jefferson	22.6	Moore	11.0
Jim Hogg	49.4	Morris	20.2
Jim Wells	44.2	Motley	19.5
Johnson	18.2	Nacogdoches	22.5
Jones	11.6	Navarro	17.2
Karnes	49.4	Newton	22.6
Kaufman	18.2	Nolan	10.9
Kendall	49.4	Nueces	41.7
Kenedy	44.2	Ochiltree	11.0
Kent	10.9	Oldham	11.0
Kerr	49.4	Orange	22.6
Kimble	20.0	Palo Pinto	17.2
King	19.5	Panola	22.5
Kinney	49.4	Parker	18.2
Kleberg	44.2	Parmer	11.0
Knox	10.9	Pecos	18.9
Lamar	20.2	Polk	27.4
Lamb	19.5	Potter	9.3
Lampasas	18.6	Presidio	49.0
LaSalle	49.4	Rains	17.2

County	Goals for Minority Participation	County	Goals for Minority Participation
Randall	9.3	Webb	87.3
Reagan	20.0	Wharton	27.4
Real	49.4	Wheeler	11.0
Red River	20.2	Wichita	12.4
Reeves	18.9	Wilbarger	11.0
Refugio	44.2	Willacy	72.9
Roberts	11.0	Williamson	24.1
Robertson	27.4	Wilson	49.4
Rockwall	18.2	Winkler	18.9
Runnels	20.0	Wise	18.2
Rusk	22.5	Wood	22.5
Sabine	22.6	Yoakum	19.5
San Augustine	22.5	Young	11.0
San Jacinto	27.4	Zapata	49.4
San Patricio	41.7	Zavala	49.4
San Saba	20.0		
Schleicher	20.0		
Scurry	10.9		
Shackelford	10.9		
Shelby	22.5		
Sherman	11.0		
Smith	23.5		
Somervell	17.2		
Starr	72.9		
Stephens	10.9		
Sterling	20.0		
Stonewall	10.9		
Sutton	20.0		
Swisher	11.0		
Tarrant	18.2		
Taylor	11.6		
Terrell	20.0		
Terry	19.5		
Throckmorton	10.9		
Titus	20.2		
Tom Green	19.2		
Travis	24.1		
Trinity	27.4		
Tyler	22.6		
Upshur	22.5		
Upton	18.9		
Uvalde	49.4		
Val Verde	49.4		
Van Zandt	17.2		
Victoria	27.4		
Walker	27.4		
Waller	27.3		
Ward	18.9		
Washington	27.4		

SPECIAL PROVISION
000---006
Standard Federal Equal Employment Opportunity Construction Contract Specifications (Executive Order 11246)

1. As used in these specifications:

a. "Covered area" means the geographical area described in the solicitation from which this contract resulted;

b. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;

c. "Employer identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.

d. "Minority" includes:

(i) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);

(ii) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);

(iii) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and

(iv) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North American and maintaining identifiable tribal affiliations through membership and participation or community identification).

2. Whenever the Contractor, or any Subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of $10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.

3. If the Contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U. S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or Subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Contractors or Subcontractors toward a goal in an approved Plan does not excuse any covered Contractor's or Subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.

4. The Contractor shall implement the specific affirmative action standards provided in paragraphs 7a through p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction contractors performing contracts in geographical areas where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the contract is being performed. Goals are published periodically in the Federal Register in notice form and such notices may be obtained from any Office of Federal Contract Compliance Programs office or any Federal procurement contracting officer. The Contractor is expected to make substantially uniform progress toward its goals in each craft during the period specified.

5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.

6. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U. S. Department of Labor.

7. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:

a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.

b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.

c. Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefor, along with whatever additional actions the Contractor may have taken.

d. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral Process has impeded the Contractor's efforts to meet its obligations.

e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under 7b above.

f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and Collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.

g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with onsite supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work

at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

h. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other Contractors and Subcontractors with whom the Contractor does or anticipates doing business.

i. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a Contractor's workforce.

k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.

l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.

m. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.

n. Ensure that all facilities and company activities are non-segregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.

o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.

p. Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations.

8. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (7a through p). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 7a through p of these Specifications provided that the contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.

9. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for

women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).

10. Nondiscrimination programs require that Federal-aid recipients, subrecipients, and contractors prevent discrimination and ensure nondiscrimination in all of their programs and activities, whether those programs and activities are federally funded or not. The factors prohibited from serving as a basis for action or inaction which discriminates include race, color, national origin, sex, age, and handicap/disability. The efforts to prevent discrimination must address, but not be limited to a program's impacts, access, benefits, participation, treatment, services, contracting opportunities, training opportunities, investigations of complaints, allocations of funds, prioritization of projects, and the functions of right-of-way, research, planning, and design.

11. The Contractor shall not enter into any Subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

12. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

13. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.

14. The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

16. In addition to the reporting requirements set forth elsewhere in this contract, the Contractor and the subcontractors holding subcontracts, not including material suppliers, of $10,000 or more, shall submit for every month of July during which work is per-formed, employment data as contained under Form PR 1391 (Appendix C to 23 CFR, Part 230), and in accordance with the instructions included thereon.

SPECIAL PROVISION

000---807

On-the-Job Training Program

1. Description. Texas Department of Transportation's (TxDOT's) program to meet the requirements of the Federal-Aid Highway Act of 1970 and 23 CFR (Code of Federal Regulations) Part 230, Subpart A. The objective is to develop skill improvement programs to provide opportunities for unskilled workers,

particularly minorities, women, and disadvantaged persons, to acquire training in the skilled construction trades.

2. **Trainee Assignment.** TxDOT's Office of Civil Rights will allocate training assignments to prequalified contractors based on the past contract volume of federal-aid work performed with TxDOT. TxDOT will notify each contractor who has met the volume of work threshold at the beginning of each reporting year and advise them of the number of trainees they are expected to support.

3. **Program Requirements.** Contractors found to have reached the level(s), as identified in the TxDOT On-The-Job Training (OJT) program document, are required to fulfill all of the requirements of the OJT program at no additional cost to the department other than contractor requested reimbursement of $0.80 per hour for a trainee.

   The contractors are required to compensate the trainee at least 60% of the appropriate minimum journeyman's rate specified in the contract for the first half of the training period, 75% for the third quarter of the training period and 90% for the last quarter of the training period.

   Contractors will promptly notify pertinent project engineers of the trainee's work location in sufficient time to allow for observation or interviews.

   The program document is available through the TxDOT Office of Civil Rights Contract Compliance Section at 125 E. 11th Street, Austin, Texas 78701.

4. **Non-Compliance.** A contractor's failure to comply with the requirements of this Special Provision shall constitute a material breach of this contract. In such a case, the department reserves the right to terminate the contract, assess liquidated damages, or such other remedy or remedies as the department deems appropriate.

SPECIAL PROVISION

000---009

Certification of Nondiscrimination in Employment

By signing this proposal, the bidder certifies that he has participated in a previous contract or subcontract subject to the equal opportunity clause, as required by Executive Orders 10925, 11114, or 11246, or if he has not participated in a previous contract of this type, or if he has had previous contract or subcontracts and has not filed, he will file with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Note: The above certification is required by the Equal Employment Opportunity Regulations of the Secretary of Labor (41 CFR 60-1.7(b)(1)), and must be submitted by bidders and proposed subcontractors only in connection with contracts and subcontracts which are subject to the equal opportunity clause. Contracts and subcontracts which are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5. (Generally only contracts or subcontracts of $10,000 or under are exempt.)

Currently, Standard Form 100 (EEO-1) is the only report required by the Executive Orders or their implementing regulations.

Proposed prime contractors and subcontractors who have participated in a previous contract or subcontract subject to the Executive Orders and have not filed the required reports should note that 41 CFR 60-1.7(b)(1) prevents the award of contracts and subcontracts unless such contractor submits a report covering the delinquent period or such other period specified by the Federal Highway Administration or by the Director, Office of Federal Contract Compliance, U. S. Department of Labor.

SPECIAL PROVISION

000---1966

Disadvantaged Business Enterprise in Federal-Aid Construction

Description. The purpose of this Special Provision is to carry out the U. S. Department of Transportation's (DOT) policy of ensuring nondiscrimination in the award and administration of DOT assisted contracts and creating a level playing field on which firms owned and controlled by individuals who are determined to be socially and economically disadvantaged can compete fairly for DOT assisted contracts. If the Disadvantaged Business Enterprise (DBE) goal is greater than zero, Article A, "Disadvantaged Business Enterprise in Federal-Aid Construction", of this Special Provision shall apply to this contract. If there is no DBE goal, Article B, "Race-Neutral DBE Participation", of this Special Provision shall apply to this contract. The percentage goal for DBE participation in the work to be performed under this contract will be shown on the proposal.

Article A. Disadvantaged Business Enterprise in Federal-Aid Construction.

1. **Policy.** It is the policy of the DOT and the Texas Department of Transportation (henceforth the "Department") that DBEs, as defined in 49 CFR Part 26, Subpart A and the Department's DBE Program, shall have the opportunity to participate in the performance of contracts financed in whole or in part with Federal funds. The DBE requirements of 49 CFR Part 26, and the Department's DBE Program, apply to this contract as follows:

   a. The prime contractor (Contractor) will solicit DBEs through reasonable and available means, as defined in 49 CFR Part 26, Appendix A and the approved DBE Program, or show a good faith effort to meet the DBE goal for this contract.

   b. The Contractor, sub-recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT financially assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the Entity deems appropriate subject to review by the Department.

   c. The requirements of this Special Provision shall be physically included in any subcontract.

   d. By signing the contract proposal, the Bidder is certifying that the DBE goal as stated in the proposal will be met by obtaining commitments from eligible DBEs or that the Bidder will provide acceptable evidence of good faith effort to meet the commitment. The Entity will determine the adequacy of a Contractor's efforts to meet the contract goal, within 10 business days, excluding national holidays, from receipt of the information outlined in this Special Provision under Article A.3, "Contractor's Responsibilities." If the requirements of Article A.3 are met, the conditional situation will be removed and the contract will be forwarded to the Contractor for execution.

2. **Definitions.**

   a. "Department" means the Texas Department of Transportation.

   b. "DOT" means the U.S. Department of Transportation, including the Office of the Secretary, and including the operating administrations, i.e. the Federal Highway Administration (FHWA), the Federal Transit Administration (FTA), and the Federal Aviation Administration (FAA).

   c. "Federal-Aid Contract" is any contract between the Texas Department of Transportation and a Contractor at any tier, or Entity and a Contractor at any tier which is paid for in whole or in part with DOT financial assistance.

   d. “Entity” means local government agency, MPO, RMA, etc.

   e. "DBE Joint Venture" means an association of a DBE firm and 1 or more other firm(s) to carry out a single business enterprise for profit for which purpose they combine

their property, capital, efforts, skills and knowledge, and in which the DBE is responsible for a distinct, clearly defined portion of the work of the contract and whose share in the capital contribution, control, management, risks, and profits of the joint venture are commensurate with its ownership interest.

f. "Disadvantaged Business Enterprise" or "DBE" means a firm certified through the Texas Unified Certification Program in accordance with 49 CFR Part 26 Subparts D and E.

g. "Good Faith Effort" means efforts to achieve a DBE goal or other requirement of 49 CFR Part 26 Subpart C and this Special Provision which, by their scope, intensity, and appropriateness to the objective, can reasonably be expected to fulfill the program requirement.

h. "Manufacturer" is a firm that operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles, or equipment required under the contract and of the general character described by the specifications.

i. "Regular Dealer" is a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business. To be a Regular Dealer, the firm must be an established, regular business that engages in, as its principal business and under its own name, the purchase and sale or lease of the products in question.

A Regular Dealer in such bulk items as steel, cement, gravel, stone, and petroleum products need not keep such products in stock if it owns and operates distribution equipment for the products. Any supplementing of Regular Dealer's own distribution equipment shall be by a long-term lease agreement and not on an ad hoc or contract-by-contract basis. *Brokers, packagers, manufacturers' representatives, or other persons who arrange or expedite transactions shall not be regarded as a Regular Dealer.

*****"Broker" is an intermediary or middleman that does not take possession of a commodity or act as a Regular Dealer selling to the public.

j. "Race-neutral DBE Participation" means any participation by a DBE through customary competitive procurement procedures.

k. "Race-conscious" means a measure or program that is focused specifically on assisting only DBEs, including women-owned DBEs.

l. "Texas Unified Certification Program" or "TUCP" provides one-stop shopping to applicants for certification in their region, such that applicants are required to apply only once for a DBE certification that will be honored by all recipients of federal funds in the state. The TUCP by Memorandum of Agreement established six member entities, including TxDOT, to serve as certifying agents for Texas in specified regions. Applicants for DBE certification may be directed to the TUCP internet site for more information at:

//www.txdot.gov/business/business_outreach/tucp.htm

3. Contractor's Responsibilities. These requirements must be satisfied by the Contractor.

a. After conditional award of the contract, the Contractor shall submit a completed Form No.SMS.4901, "DBE Commitment Agreement" for each DBE he/she intends to use to satisfy the DBE goal or a good faith effort to explain why the goal could not be reached, so as to arrive in the Entity's contracting office not later than 5:00 p.m. on the 10th business day, excluding national holidays, after the conditional award of the contract. When requested, additional time, not to exceed seven (7) business days, excluding national holidays, may be granted based on documentation submitted by the Contractor. The Entity shall submit the DBE Commitment Agreement package to the Department's Office of Civil Rights in Austin, Texas not later than 5:00 p.m. on the 30th business day, excluding national holidays, after the conditional award of the

contract. The DBE Commitment Agreement package is subject to review, comment and approval by TxDOT prior to and as a condition of execution of the contract.

b. DBE prime contractors who subcontract with DBEs may receive credit toward the DBE goal for work performed by the DBE's own forces and work subcontracted to DBEs. A Contractor must make a good faith effort to meet the goals. In the event a DBE prime subcontracts to a non-DBE, that information must be reported on Form No. SMS.4902. The completed form is provided to the Entity with a copy to the TxDOT District Office responsible for overseeing the project.

c. A Contractor who cannot meet the contract goal, in whole or in part, shall make adequate good faith efforts to obtain DBE participation as so stated and defined in 49 CFR Part 26, Appendix A. The following is a list of the types of action that may be considered as good faith efforts. It is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases.

- Soliciting through all reasonable and available means (e.g. attendance at pre-bid meetings, advertising, and/or written notices) the interest of all certified DBEs who have the capability to perform the work of the contract. The solicitation must be done within sufficient time to allow the DBEs to respond to it. Appropriate steps must be taken to follow up initial solicitations to determine, with certainty, if the DBEs are interested.
- Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even when the Contractor might otherwise prefer to perform the work items with its own forces.
- Providing interested DBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.
- Negotiating in good faith with interested DBEs to make a portion of the work available to DBE subcontractors and suppliers and select those portions of the work or material needs consistent with the available DBE subcontractors and suppliers, so as to facilitate DBE participation. Evidence of such negotiations includes the names, addresses, and telephone numbers of DBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for DBEs to perform the work.
- A Bidder using good business judgment would consider a number of factors in negotiating with subcontractors, including DBE subcontractors, and would take a firm price and capabilities as well as contract goals into consideration. However, the fact that there may be some additional cost involved in finding and using DBEs is not in itself sufficient reason for a Bidders failure to meet the Contract DBE goal as long as such cost are reasonable. Also, the ability or desire of the Contractor to perform the work of the contract with its own organization does not relieve the Bidder of the responsibility to make good faith effort. Contractors are not, however, required to accept higher quotes from DBEs if the price difference is excessive or unreasonable.
- Not rejecting DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The Contractor's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. nonunion employee status) are not legitimate cause for the rejection or non-solicitation of bids and the Contractors efforts to meet the project goal.
- Making efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance as required by the recipient or Contractor.

- Making efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.
- Effectively using the services of available minority/women community organizations; minority/women Contractors' groups; local, state, and Federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBEs.
- If the Entity determines that the Contractor has failed to meet the good faith effort requirements, the Contractor will be given an opportunity for reconsideration by the TxDOT District Office responsible for overseeing the project. Opportunity for further appeals will be addressed by the TxDOT Office of Civil Rights.

d. Should the Bidder to whom the contract is conditionally awarded refuse, neglect or fail to meet the DBE goal or comply with good faith effort requirements, the Entity can take remedial financial action as provided by the Entity's/Department's rules or practices or reference to 43 TAC §9.56, as a guideline when the Entity does not have uniform rules or practices for non-compliance with the terms of its contracts.

All contract and project information shall be submitted directly to the Entity and with a copy to the TxDOT District or Office responsible to oversee the project.

e. The Contractor shall not terminate for convenience a DBE subcontractor named in the commitment submitted under Article A.3.a. of this Special Provision. Prior to terminating or removing a DBE subcontractor named in the commitment, the Contractor shall make a good faith effort to replace a DBE subcontractor that is unable to perform successfully with another DBE to the extent needed to meet the contract goal. The Contractor shall submit a completed Form No.4901, "DBE Commitment Agreement," and Form No. 2228 "Disadvantaged Business Enterprise (DBE) Request for Substitution for the substitute DBE firm(s). Any substitution of DBEs shall be subject to approval by the Entity. Prior to approving the substitution, the Entity will request a statement from the DBE about the circumstances of its subcontract's termination. The contractor must have a written consent prior to substitution. A copy of all documentation shall be provided to the TxDOT District Office responsible to oversee the project.

f. The Contractor shall designate a DBE liaison officer who will administer the Contractor's DBE program and who will be responsible for maintenance of records, reports, efforts and contacts made to subcontract with DBEs.

g. Contractors are encouraged to investigate the services offered by banks owned and controlled by disadvantaged individuals and to make use of these banks where feasible.

4. Eligibility of DBEs.

a. The member entities of the TUCP certify the eligibility of DBEs and DBE joint ventures to perform DBE subcontract work on DOT financially assisted contracts.

b. The Department maintains the Texas Unified Certification Program DBE Directory containing the names of firms that have been certified to be eligible to participate as DBE's on DOT financially assisted contracts. This Directory is available from the Department's OCR. An update of the Directory can be found on the Internet at

http://www.dot.state.tx.us/business/tucpinfo.htm.

c. Only DBE firms certified at the time commitments are submitted are eligible to be used in the information furnished by the Contractor as required under Article A.3.a. and 3.g. above. For purposes of the DBE goal on this project. DBEs will only be allowed to perform work in the categories of work for which they are certified.

d. Only DBE firms certified at the time of execution of a contract, subcontract, or purchase order are eligible for DBE goal participation.

5. **Determination of DBE Participation.** When a DBE participates in a contract, only the values of the work actually performed by the DBE, as referenced below, shall be counted by the Contractor toward DBE goals:

   a. The total amount paid to the DBE for work performed with the DBE's own forces is counted toward the DBE goal. When a DBE subcontracts part of the work of its contract to another firm, the value of the subcontracted work may be counted toward DBE goals only if the subcontractor is itself a DBE. Work that a DBE subcontracts to a non-DBE firm does not count toward DBE goals.

   b. A Contractor may count toward its DBE goal a portion of the total value of the contract amount paid to a DBE joint venture equal to the distinct, clearly defined portion of the work of the contract performed by the DBE.

   (1) A Contractor may count toward its DBE goal only expenditures to DBEs that perform a commercially useful function (CUF) in the work of a contract or purchase order. A DBE is considered to perform a CUF when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a CUF, the DBE must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself.

   A minimum of one CUF Project Site Review (CUFPSR) will be conducted by the Entity using Department Form 2182 on all DBE firms working on the project.

   In accordance with 49 CFR Part 26, Appendix A. guidance concerning Good Faith Efforts, Contractors may make efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services. Contractors may not however, negotiate the price of materials or supplies used on the contract by the DBE, nor may they determine quality and quantity, order the materials themselves, nor install the materials (if applicable), or pay for the material themselves. Contractors however, may share the quotations they receive from the material supplier with the DBE firm, so that the DBE firm may negotiate a reasonable price with the material supplier.

   In all cases, Contractor or other non-DBE subcontractor assistance will not be credited toward the DBE goal.

   (2) A DBE does not perform a CUF if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation.

   Consistent with industry practices and the DOT/Department's DBE program, a DBE subcontractor may enter into second-tier subcontracts, amounting up to seventy percent (70%) of their contract. Work subcontracted to a non-DBE does not count towards DBE goals. If a DBE does not perform or exercise responsibility for at least thirty percent (30%) of the total cost of its contract with its own work force, or the DBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved, it will be presumed that the DBE is not performing a CUF.

   (3) A DBE trucking firm who is certified as a DBE is considered to be performing a CUF when the DBE is responsible for the management and supervision of the entire trucking operation on a particular contract and the DBE itself owns and operates at least one (1) fully licensed, insured, and operational truck used on the contract.

   (a) The entity shall verify ownership of all trucks prior to commencement of work of the DBE trucking firm.

   (b) The Contractor receives credit for the total value of the transportation services the DBE provides on a contract using trucks it owns, insures, and operates with drivers it employs.

(c) The DBE may lease trucks from another DBE firm, including an owner operator who is certified as a DBE. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the Contract.

(d) The DBE may also lease trucks from a non-DBE firm, including from an owner-operator. The DBE who leases trucks from a non-DBE is entitled to credit for the total value of transportation services provided by non-DBE lessees not to exceed the value of transportation services provided by the DBE-owned trucks on its sub-contract. Additional participation by non-DBEs receive credit only for the fee or commission it receives as result of the lease arrangement.

(e) A lease must indicate that the DBE has exclusive use of and control over the trucks giving the DBE absolute priority for use of the leased trucks. Leased trucks must display the name and identification number of the DBE.

(f) The DBE Trucking Firm shall submit Form 2371, "Trucking Credit Worksheet", within 10 calendar days of the end of the month to the Prime Contractor. The prime shall submit a copy of Form 2371 with the DBE Monthly Progress Report.

(4) When a DBE is presumed not to be performing a CUF the TxDOT District Office responsible to oversee the project will be notified. The DBE may present evidence to rebut this presumption.

c. A Contractor may count toward its DBE goals expenditures for materials and supplies obtained from a DBE manufacturer, provided that the DBE assumes the actual and contractual responsibility for the materials and supplies. Count expenditures with DBEs for materials or supplies toward DBE goals as provided in the following:

(1) If the materials or supplies are obtained from a DBE manufacturer, count 100% of the cost of the materials or supplies toward DBE goals. (The definition of a DBE manufacturer is found at Article A.2.h. of this Special Provision.)

(2) If the materials or supplies are purchased from a DBE Regular Dealer, count 60% of the cost of the materials or supplies toward DBE goals. (The definition of a DBE Regular Dealer is found at Article A.2.i. of this Special Provision.)

(3) With respect to materials or supplies purchased from DBE which is neither a manufacturer nor a Regular Dealer, count the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on a job site, toward DBE goals, provided you determine the fees to be reasonable and not excessive as compared with fees customarily allowed for similar services. Do not count any portion of the cost of the materials and supplies themselves toward DBE goals.

(4) Count the entire amount of fees or commissions charged by a DBE firm for providing a bona fide service, such as professional, technical, consultant or managerial services, or for providing bonds or insurance specifically required for the performance of a DOT financially assisted contract, toward DBE goals, provided you determine the fee to be reasonable and not excessive as compared with fees customarily allowed for similar services.

d. Should the DBE firm request assistance in the form of a joint check and the contractor chooses to assist the DBE firm, other than a manufacturing material supplier or Regular Dealer, the Contractor may act solely as a guarantor by use of a two-party check for payment of materials to be used on the project by the DBE. The material supplier must invoice the DBE who will present the invoice to the Contractor. The Contractor may issue a joint check to the DBE and the material supplier and the DBE firm must issue the remittance to the material supplier. No funds shall go directly from the Contractor to the material supplier. The DBE firm may accept or reject this joint checking arrangement.

The Contractor must obtain approval from the Entity, prior to implementing the use of joint check arrangements with the DBE. The Contractor shall submit to the Entity, Joint Check Approval Form 2178 and provide copies of cancelled joint checks to the Entity upon request if the joint check arrangement is approved. No DBE goal credit will be allowed for the cost of DBE materials that are paid by the Contractor directly to the material supplier. A copy of the completed form is to be provided to the TxDOT District Office responsible for overseeing the project.

e. No DBE goal credit will be allowed for supplies and equipment the DBE subcontractor leases from the contractor or its affiliates.

f. No DBE goal credit will be allowed for the period of time determined by the Entity that the DBE was not performing a CUF. The denial period of time may occur before or after a determination has been made by the Entity. In case of the denial of credit for non-performance of a CUF of a DBE, the Contractor will be required to provide a substitute DBE to meet the contract goal or provide an adequate good faith effort when applicable and as required under Article A.3.e.

6. Records and Reports.

a. The Contractor shall submit monthly reports, after work begins, on DBE payments to meet the DBE goal and for DBE race-neutral participation. Report payments made to non-DBE firms. The monthly report is to be sent to the Entity with a copy to the TxDOT District Office responsible to oversee the project. These reports will be due within fifteen (15) days after the end of a calendar month. These reports will be required until all DBE subcontracting or material supply activity is completed. Form No. SMS.4903, DBE Progress Report, is to be used for monthly reporting. Form No. SMS.4904, DBE Final Report, is to be used as a final summary of DBE payments submitted upon completion of the project. The original final report must be submitted to the Entity with copies to the TxDOT District Office responsible for overseeing the project and to the TxDOT Office of Civil Rights. These forms may be obtained from the Department or may be reproduced by the Contractor. The Entity may verify the amounts being reported as paid to DBEs by requesting copies of cancelled checks paid to DBEs on a random basis. Cancelled checks and invoices should reference the Entity's or Department's project number, as applicable.

b. DBE subcontractors and/or material suppliers should be identified on the monthly report by Vendor Number, name, and the amount of actual payment made to each during the monthly period. Negative reports are required when no activity has occurred in a monthly period.

c. All such records must be retained by the Contractor and the Entity for a minimum of four (4) years following completion of the contract work, and shall be available at reasonable times and places for inspection by authorized representatives of the Department or the DOT operating administration.

d. Prior to receiving final payment, the Contractor shall submit Form No. SMS.4904. DBE Final Report. If the DBE goal requirement is not met, documentation supporting Good Faith Efforts, as outlined in Article A.3.c. of this Special Provision, must be submitted with the DBE Final Report. A copy of the completed form is provided to the TxDOT District Office responsible for overseeing the project.

7. Compliance of Contractor.

a. To ensure that DBE requirements of this DOT financially assisted contract are complied with, the Entity will monitor the Contractor's efforts to involve DBEs during the performance of this contract. This will be accomplished by a review by the Entity of monthly reports submitted to the Entity by the Contractor indicating his progress in achieving the DBE contract goal and by compliance reviews conducted on the project site by the Entity and by the Department, as needed.

b. The Contractor shall receive credit toward the DBE goal based on actual payments to the DBE subcontractor. The Contractor shall notify the Entity if it withholds or reduces payment to any DBE subcontractor. The Contractor shall submit an affidavit

detailing the DBE subcontract payments prior to receiving final payment for the contract. Copies of these documents will be provided to the Entity and to the TxDOT District Office responsible for overseeing the project.

c. Contractors' requests for substitutions of DBE subcontractors shall be accompanied by a detailed explanation which should substantiate the need for a substitution. The Contractor may not be allowed to count work on those items being substituted toward the DBE goal prior to approval of the substitution from the Entity.

d. The Contractor is prohibited from providing work crews and equipment to DBEs. DBE Goal credit for the DBE subcontractors leasing of equipment or purchasing of supplies and/or materials from the Contractor or its affiliates is not allowed.

e. When a DBE subcontractor, named in the commitment under Article A.3.a. of this Special Provision, is terminated or fails to complete its work on the contract for any reason, the Contractor is required to make good faith efforts to find another DBE subcontractor to substitute for the original DBE. These good faith efforts shall be directed at finding another DBE to perform at least the same amount of work under the contract as the DBE that was terminated, to the extent needed to meet the contract goal.

f. A Contractor's failure to comply with the requirements of this Special Provision shall constitute a material breach of the contract. In such a case, the Entity or the Department, as appropriate, reserves the right to terminate the contract; to deduct the amount of DBE goal not accomplished by DBEs from the money due or to become due the Contractor, or such other remedy or remedies as the Entity deems appropriate, subject to review by the Department.

Article B. Race-Neutral Disadvantaged Business Enterprise Participation.

1. Policy. It is the policy of the DOT that Disadvantaged Business Enterprises (DBE), as defined in 49 CFR Part 26 Subpart A, be given the opportunity to compete fairly for contracts and subcontracts financed in whole or in part with Federal funds and that a maximum feasible portion of the Department's overall DBE goal be met using race-neutral means.

a. If there is no DBE goal, the DBE requirements of 49 CFR Part 26, apply to this contract as follows:

The Contractor will offer DBEs as defined in 49 CFR Part 26, Subpart A, the opportunity to compete fairly for contracts and subcontractors financed in whole or in part with Federal funds.

b. The Contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT financially assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the Entity deems appropriate, subject to review by the Department.

2. Reports. Race-Neutral DBE participation on projects with no DBE goal shall be reported on Form No. SMS.4903, DBE Progress Report and submitted to the Entity each month and at project completion. Copies of payment documents should be sent to the TxDOT District Office responsible for project oversight. Payments to DBE firms are reported on Form No. SMS.4903 and are subject to the requirements of Article A.5, "Determination of DBE Participation."

SPECIAL PROVISION
001---004
Definition of Terms

For this project, Item 001, "Definition of Terms," of the Standard Specifications, is hereby amended with respect to the clauses cited below, and no other clauses or requirements of this Item are waived or changed hereby.

This Item is supplemented by the following:

1.148. Additive Alternate. A bid item contained in a proposal that is not a regular item or a designated alternate bid item. The additive alternate item(s) include work that may be added to the base bid work.

1.149. Base Bid. The total bid (includes regular bid items or corresponding alternate bid items if lower) amount without additive alternates.

SPECIAL PROVISION
002---007
Instructions to Bidders

For this project, Item 002, "Instruction to Bidders," of the Standard Specifications, is hereby amended with respect to the clauses cited below, and no other clauses or requirements of this Item are waived or changed hereby.

Article 2.6. Preparing the Proposal. The first paragraph is voided and replaced by the following:

Submit the proposal on the form furnished by the Department. Make entries in ink. Specify a unit price in dollars and cents for each Item for which an estimated quantity is given. When "Working Days" is an Item, submit the number of working days to be used to complete the Contract, or phases of the Contract shown on the plans. Include unit bid prices for each Item in the Item group or alternate Item group, except for instances when alternate Items pertain to foreign steel or iron materials. Include unit bid prices for all additive alternate Items. An Item left blank will constitute an incomplete bid and will be handled as prescribed in Article 2.14, "Tabulating Bids."

Article 2.14. Tabulating Bids, Section E., Consideration of Unit Prices. The second and third paragraphs are voided and replaced by the following:

The Department will consider proposals where unit bid prices have been left blank incomplete and nonresponsive. The proposal will be considered complete if:

- all regular Items without corresponding alternate Items have a unit price entered, and
- the regular Items or group of regular Items with corresponding alternate Items have unit prices entered, or all the corresponding alternate Items or group of alternate Items have unit prices entered, and
- all additive alternate Items have a unit price entered.

The bid will be considered incomplete and nonresponsive if:

- a regular Item without a corresponding alternate Item is left blank, or
- a regular Item or group of regular Items is left blank, and a corresponding alternate Item or group of alternate Items is left blank, or
- an additive alternate Item is left blank.

Article 2.14. Tabulating Bids, Section F., Consideration of Alternate Items is supplemented by the following:

Note: This section does apply to additive alternates.

Article 2.14. Tabulating Bids, Section G., Special Item Considerations is supplemented by the following.

4. Additive Alternates. The total bid amount used for determining the apparent low bidder will be total of the base bid items, unless otherwise shown on the plans.

SPECIAL PROVISION
003---024
Award and Execution of Contract

For this project, Item 003, "Award and Execution of Contract," of the Standard Specifications, is hereby amended with respect to the clauses cited below, and no other clauses or requirements of this Item are waived or changed hereby.

Article 3.8. Beginning of Work is supplemented by the following:

For projects with additive alternates, the work order will identify base bid work and additive alternate work the Department specifies to be performed. The Department makes no guarantees that additive alternate work will be required. The additive alternate work not required is not a basis for claim.

SPECIAL PROVISION
Differing Site Conditions

Reference 23 CFR 635.109. During the progress of the work, differing subsurface or latent physical conditions may be encountered at the site. The two types of differing site conditions are defined as:

- those that differ materially from those indicated in the Contract and
- unknown physical conditions of an unusual nature differing materially from those ordinarily encountered and generally recognized as inherent in the work provided for in the Contract.

Notify the Engineer in writing when differing site conditions are encountered. The Engineer will notify the Contractor when the OWNER discovers differing site conditions. Unless directed otherwise, suspend work on the affected items and leave the site undisturbed. The Engineer will investigate the conditions and determine whether differing site conditions exist. If the differing site conditions cause an increase or decrease in the cost or number of working days specified for the performance of the Contract, the Engineer will make adjustments, excluding the loss of anticipated profits, in accordance with the Contract. Additional compensation will be made only if the required written notice has been provided.

SPECIAL PROVISION
Prison Produced Materials

Reference 23 CFR 635.417. There are limitations on using materials produced by convict labor in a Federal-aid Highway project. Materials produced after July 1, 1991 by convict labor may only be incorporated in a Federal-aid highway construction project if:

- Such materials have been produced by convicts who are on parole, supervised release, or probation from a prison; or

- Such material has been produced in a qualified prison facility (e.g. prison industry, with the amount produced during any 12-month period) for use in Federal-aid projects, not exceeding the amount produced, for such use, during the 12-month period ending July 1, 1987. Texas does not have a qualified prison facility meeting the requirements of the regulation.

END

SECTION 00100 – INSTRUCTIONS TO BIDDERS

2. Estimates of Quantities (Unit Price Contracts Only)

Delete paragraph and replace with the following:

"The estimated quantities of the line item components of the Work set forth in Bid Form Section 00300U-IDIQ are included solely for the purpose of providing a reasonable basis for the calculation of bid amounts based upon the unit prices bid. The actual quantities of Work under the Contract will vary from the estimated quantities set forth above and will be dependent upon the scope of Work for each Work Assignment. There is no representation or guarantee of any set amount of any Bid item. Payment to CONTRACTOR will only be made for actual quantities of Work performed or materials furnished in accordance with each Work Assignment. It is agreed and understood that quantities may be increased or decreased as required by subsequently issued Work Assignments and as provided in Section 00700, General Conditions, and as may be modified by Section 00810-IDIQ, Supplemental General Conditions."

12. Award and Execution of Contract

Add as the third sentence of first paragraph:

"The initial Contract Amount will not exceed two million ($2,000,000) dollars for the initial Contract Term and two million ($2,000,000) dollars for each extension option for a total potential Contract Amount not to exceed six ($6,000,000) million dollars. In the event available funding during a term has been expended, the City may initiate the early execution of an available extension option. Funding may be increased subject to the availability of funds and further approval of the Austin City Council."

END

WAGE RATES AND PAYROLL REPORTING
Section 00830

1. PAYMENT

1.1 Classification Definitions, Building and Heavy and Highway

1.1.1 Definitions for Building Construction and Heavy and Highway classifications shall conform to the current "Occupational Information Network (O*NET)" as approved by the U.S. Department of Labor. For interpretive guidance, the Core Task list in O*NET will be used to make prevailing wage determinations. Final classification of workers will be made by the OWNER.

1.2 Minimum Wages

1.2.1 Workers on Project shall be paid not less than wage rates, including fringe benefits, as published by the Department of Labor (DOL) or the $15.00 minimum wage required by City of Austin Ordinance No. 20160324-015, whichever is higher. The Total Minimum Wage required can be met using any combination of cash and non-cash qualified fringe benefits provided the cash component meets or exceeds the $15.00 minimum wage required.

1.2.2 Such wage rates shall be used throughout the Contract. If a classification is to be used, which is not listed in the attached wage rates, CONTRACTOR shall submit to OWNER rates and classification proposed for use, for approval, prior to performance of the Work.

1.2.3 All laborers and mechanics working upon the Work for this Project shall be paid unconditionally and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by Secretary of Labor under the Copeland Act, Title 29 CFR, Part 3) full wages accrued and when due, computed at rates not less than wage rates bound herein pertaining to type of Work being performed. When Work is of such a nature that both Building and Heavy and Highway wage scales are incorporated into contract, CONTRACTOR shall pay wage rates to mechanics or laborers performing Work in more than one classification at the rate indicated for each classification for time actually worked as determined by area practice applicable to type (Site Construction Crafts or Building Construction Crafts) of Work being performed without regards to skill. Salaried specialists (project superintendent and administrative personnel only) in the permanent employment of CONTRACTOR do not fall under any Wage Classification. A supervisor/foreman who is not exempt under 29 CFR Part 541 and who spends more than a substantial amount of time (20 percent) in a given workweek as a laborer or mechanic must be paid the applicable Wage Rate for the classification of work performed for all hours engaged in such work as a laborer or mechanic.

1.2.4 Wage rates shall be posted by CONTRACTOR at site(s) of Work in prominent, easily accessible places where they can be seen by all workers. The following shall also be posted by the CONTRACTOR: City of Austin wage contact posters (English and Spanish), City of Austin Equal Employment Opportunity posters (English and Spanish), Workers' Compensation Notice (English and Spanish), Texas Payday Law (English and Spanish), City Rest Break Ordinance

(English and Spanish), City of Austin Non-Discrimination Statement (related to Title VI of the Civil Rights Act), and Federal Notices, as appropriate.

1.3 Overtime Requirements

1.3.1 No CONTRACTOR, Subcontractor, or Sub-subcontractor contracting for any part of contract Work which may require or involve the employment of laborers or mechanics shall require or permit any laborer or mechanic in any workweek in which he is employed on such Work, to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times their basic rate of pay for all hours in excess of forty hours in such workweek.

1.3.2 Overtime wages must be calculated using the Adjusted Wage Rate specified in the Wage Rate Determination or the actual basic rate of pay, whichever is higher.

2. APPRENTICES

2.1 Locally and Federally Funded Projects

2.1.1 The terms journeyman and apprentice apply to both union and independent workers, and are not intended to imply that these positions are union workers only.

2.1.2 Apprentices and Trainees will be permitted to work as such only when they are registered, individually, under a bonafide Apprenticeship or Trainee program registered with the Bureau of Apprenticeship and Training, United States Department of Labor. The allowable ratio of Apprentices or Trainees to journeymen in any craft classification shall not be greater than the ratio permitted to CONTRACTOR as stated in the registered apprenticeship program standards. Any employee listed on a payroll at an Apprentice or Trainee wage rate, who is not registered as above, shall be paid the wage rate provided in Contract for Work employee actually performed. CONTRACTOR, Subcontractor, or Subsubcontractor shall furnish to OWNER written evidence of registration of his program for Apprentices and Trainees as well as of the appropriate ratios and wage rates, for the area of construction prior to using any Apprentices or Trainees on this Contract.

3. WITHHOLDING PAYMENTS

3.1 OWNER may withhold or cause to be withheld from CONTRACTOR as much of the accrued payments as necessary to pay laborers and mechanics employed by CONTRACTOR, Subcontractors, or Sub-subcontractors the amount of wages required to comply with the Contract. In the event of nonpayment of wages to laborers or mechanics working on the site of the Work of this Contract, OWNER may, after Written Notice to CONTRACTOR, take such action as may be necessary to cause suspension of any further payments or advance of funds to CONTRACTOR until such violations have ceased and until restitution has been made. Payments may also be withheld if CONTRACTOR fails to maintain weekly payroll reports or fails to provide copies in a timely manner upon request of Owner.

4. PAYROLLS

4.1 CONTRACTOR shall keep records showing:

4.1.1 The name, address and occupation of each worker employed by the CONTRACTOR or subcontractor(s) in the construction of the public work.

4.1.2 The actual per diem wages paid to each worker

4.1.3 Employee Certification. CONTRACTOR, all levels of Subcontractors shall identify in writing, the classification agreed to by all laborers and mechanics employed by them in the execution of the Contract, and pay not less than rates specified in the attached Wage Rate Determination(s). Contractor shall prepare a completed form for the signature of Employee and a witness shall sign the form in the presence of Employee. If work performed by worker is different than the trade classification agreed upon, the worker shall be paid for that work no less than the minimum prevailing wage for that specified trade.

4.1.4 Payroll Deduction Authorization Form. CONTRACTOR, Subcontractor, and Sub subcontractor shall prepare for employee signature a payroll deduction authorization form to identify all payroll deductions excluding those required by statute, such as federal income taxes, Medicare and social security.

4.2 The record shall be open at all reasonable hours to inspection by the officers and agents of the Owner as requested. CONTRACTOR will be responsible to provide copies of records as requested by the Owner within two (2) working days. Payrolls relating to this Work shall be maintained during term of Contract and preserved for a period of three (3) years thereafter by CONTRACTOR for all laborers and mechanics working on the Work.

4.3 A Statement of Compliance, a letter signed and dated by party responsible for supervising the payment of persons employed by CONTRACTOR or subcontractor shall accompany payrolls required by Owner. The Statement of Compliance letter shall identify but is not limited to:

4.3.1 Name of signatory party and title

4.3.2 Name of project, payroll period and

4.3.3 Name of CONTRACTOR or Subcontractor

4.4 The signed letter attests that the payroll complies with 29CFR issued by the Secretary of Labor.

4.5 Federal Funding. In the event that federal funding is used:

4.5.1 Contractor and all levels of Subcontractors shall submit weekly certified payroll reports and signed wage compliance statements to the Owner's designated office no later than seven (7) calendar days after the scheduled payday.

4.5.2 Contractors and all levels of Subcontractors shall pay all "mechanics and laborers" not less often than once per week, for work performed the previous week.

4.5.3 Submit to the Owner's designated office Standard Form 1413, Statement and Acknowledgement, from each subcontractor prior to the subcontractor performing work on the project.

5. NONCOMPLIANCE

5.1 According to Chapter 2258 Texas Government Code Title 10A, a CONTRACTOR or subcontractor(s) who violates this section shall pay to the political subdivision on whose behalf the contract is made, $60 for each worker employed for each calendar day or part of the day that the worker is paid less than the wage rates stipulated in the contract. A public body shall use any money collected under this section to offset the costs incurred in the administration of this chapter.

5.2 Confirmed Disciplinary action taken by CONTRACTOR against employees who provide information during an interview or investigation by the Owner on wages received, may result in suspension or debarment from consideration of award of City contracts.

6. AREA PRACTICE

6.1 Heavy and Highway Construction Rates shall be used on this Project, unless the Project consists primarily of Building Construction and Building Construction Rates are to be used.

6.1.1 Building Construction consists generally of all aspects of construction of buildings, which are sheltered enclosures with walk-in access for the purpose of housing persons, machinery, equipment or supplies, including without limitation the installation of utilities and equipment, both above and below grade level, as well as incidental demolition, grading, utilities, paving and other site work. Buildings need not be "habitable" to be classified as Building Construction and the installation of heavy machinery and/or equipment will not generally change a Building Construction project's classification.

6.1.2 The determination of Building Construction Wage Rates includes all construction trades and work necessary to complete a building, regardless of the number of contracts involved, so long as all such contracts are closely related in purpose, time and place.

6.2 For projects that involve both Building Construction and Heavy and Highway trades, the following classifications shall be used:

6.2.1 A multiple classification shall be used if Building Construction items are more than 20% of the Heavy and Highway project cost.

6.2.2 A multiple classification shall be used if Heavy and Highway Construction items are more than 20% of the Building Construction Project cost.

6.3 Split classifications/multiple wage rate schedules: When construction work requires that an employee perform work under multiple classifications or multiple wage scales, the employer must pay that worker (at least) the highest prevailing wage or the employer payroll records must accurately set forth the times spent performing the work of each classification and under each scale. For those projects that involve both Building Construction and Heavy and Highway trades, the Heavy and Highway wage rates may only be applied to workers when engaged in site work at least five (5) feet beyond the building.

7. TEXAS OPEN RECORDS ACT

7.1 Unless covered by an exception to mandatory disclosure under the Texas Public Information Act, Chapter 552, Texas Government Code, any and all documents submitted to the City of Austin become Public Records and are, therefore, subject to public disclosure.

Wage Rates for This Project Are Attached

END

WAGE RATE DETERMINATION

Heavy and Highway
County Name: TRAVIS

Wages based on DOL General Decision: TX20200007 01/03/2020 TX19 and City of Austin Ordinance #20160324-015

DOL Rate column is for information only. The Total Minimum Wage Rate is derived from the Adjusted Wage Rate Required pursuant to City Ordinance, and can be met using any combination of cash and non-cash qualified fringe benefits, provided the cash component is at least $15.00/hour.

Classification	DOL Rate For info Only	Adjusted Wage Rate Required Pursuant to City Ordinance	Total Minimum Wage Rate Required
Agricultural Tractor Operator	$12.69	$15.00	$15.00
Asphalt Distributor Operator	$15.55	$15.55	$15.55
Asphalt Paving Machine Operator	$14.36	$15.00	$15.00
Asphalt Raker	$12.12	$15.00	$15.00
Boom Truck Operator	$18.36	$18.36	$18.36
Broom or Sweeper Operator	$11.04	$15.00	$15.00
Cement Mason/Concrete Finisher	$12.56	$15.00	$15.00
Concrete Pavement Finishing Machine Operator	$15.48	$15.48	$15.48
Crane, Hydraulic, 80 tons or less	$18.36	$18.36	$18.36
Crane, Lattice Boom, 80 tons or less	$15.87	$15.87	$15.87
Crane, Lattice Boom, over 80 tons	$19.38	$19.38	$19.38
Crawler Tractor	$15.67	$15.67	$15.67
Directional Drilling Locator	$11.67	$15.00	$15.00
Directional Drilling Operator	$17.24	$17.24	$17.24
Electrician	$26.35	$26.35	$26.35
Excavator 50,000 lbs. or less	$12.88	$15.00	$15.00
Excavator, over 50,000 lbs.	$17.71	$17.71	$17.71
Flagger	$10.60	$15.00	$15.00
Form Builder/Form Setter - Paving & Curb	$12.94	$15.00	$15.00
Form Builder/Form Setter - Structures	$12.87	$15.00	$15.00
Foundation Drill Operator, Truck Mounted	$16.93	$16.93	$16.93
Front End Loader Operator, 3CY or less	$13.04	$15.00	$15.00
Front End Loader, over 3CY	$13.21	$15.00	$15.00

Laborer, Common	$10.60	$15.00	$15.00
Laborer, Utility	$12.27	$15.00	$15.00
Loader/Backhoe Operator	$14.12	$15.00	$15.00
Mechanic	$17.10	$17.10	$17.10
Milling Machine	$14.18	$15.00	$15.00
Motor Grader Operator - Fine Grade	$18.51	$18.51	$18.51
Motor Grader Operator, Rough	$14.63	$15.00	$15.00
Painter - Structures	$18.34	$18.34	$18.34
Pavement Marking Machine Operator	$19.17	$19.17	$19.17
Pipelayer	$12.79	$15.00	$15.00
Reclaimer/Pulverizer	$12.88	$15.00	$15.00
Reinforcing Steel Setter	$14.00	$15.00	$15.00
Roller Operator, Asphalt	$12.78	$15.00	$15.00
Roller Operator, Other	$10.60	$15.00	$15.00
Scraper Operator	$12.27	$15.00	$15.00
Servicer	$14.51	$15.00	$15.00
Spreader Box Operator	$14.04	$15.00	$15.00
Structural Steel Worker	$19.29	$19.29	$19.29
Traffic Signal Installer/Light Pole Worker	$16.00	$16.00	$16.00
Trenching Machine Operator, Heavy	$18.48	$18.48	$18.48
Truck Driver Tandem Axle Semi-Trailer	$12.81	$15.00	$15.00
Truck Driver, Lowboy/Float	$15.66	$15.66	$15.66
Truck Driver, Single Axle	$11.79	$15.00	$15.00
Truck Driver, Off Road Hauler	$11.88	$15.00	$15.00
Truck Driver, Single or Tandem Axle Dump	$11.68	$15.00	$15.00
*Welders	$15.97	$15.97	$15.97
Work Zone Barricade Servicer	$11.85	$15.00	$15.00

The Wage Compliance information detailed below was excerpted from DOL General Decision TX170016 or other sources.

1. ADDITIONAL TRADE INFORMATION

Unlisted classifications needed for work not listed within the scope of the classifications listed may be added upon the advance approval of Contract Procurement. CONTRACTOR shall submit to City of Austin Contract Procurement the following: classification, a bona fide definition of work to be performed and a proposed wage with sample payrolls conforming to area practice **prior** to the start of the job for that type of work. Proposed trade may not be performed by any trade already listed.

2. WAGES

The Total Minimum Wage Rate may be met by any combination of cash wages and credible "bona fide" fringe benefits paid for by the employer. Overtime must be used in computing overtime pay. Wages must be calculated using the Total Minimum Wage Rate specified in the Wage Rate Determination or the actual basic rate of pay, whichever is higher.

City of Austin Ordinance No. 2016324-015 requires that construction workers are paid a minimum Wage of at least $15.00/hour. The cash portion of their compensation must meet or exceed this amount.

3. PROPER DESIGNATION OF TRADE

A work classification from the Prevailing Wage Poster for each worker must be made based on the actual type of work he/she performed on the job. In summary the work performed, not the "title" determines the correct worker classification and wage. Each worker must be paid no less than the adjusted wage rate on the wage decision for that classification **regardless** of his/her level of skill (exclusive of a bona fide apprentice currently registered in a DOL approved apprentice program - proof of individual registration must be supplied in advance to the City of Austin).

4. SPLIT CLASSIFICATION

If a firm has employees that perform work in more than one classification, it can pay the adjusted wage rates specified for each classification ONLY if it maintains accurate time records showing the amount of time spent in each classification. If accurate time records are not maintained, these employees must be paid the highest adjusted wage rate of all the classifications of work performed by each worker. Accurate time records tracking how many hours a worker performed the work of one trade and then switched to another trade must be accounted for on a daily basis and reflected on Employer Certified Payroll accordingly.

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*WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

==========

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

In the listing above, the "SU" designation means that rates listed under the identifier do not reflect collectively bargained wage and fringe benefit rates. Other designations indicate unions whose rates have been determined to be prevailing.

5. WAGE DETERMINATION APPEALS PROCESS

5.1 Has there been an initial decision in the matter? This can be:

- **.1** An existing published wage determination
- **.2** A survey underlying a wage determination
- **.3** A Wage and Hour Division letter setting forth a position on a wage determination

matter

.4 A conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in **.2** and **.3** should be followed.

5.2 With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determination
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W. Washington, DC 20210

5.3 If the answer to the question in **.1** is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W. Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

5.4 If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W. Washington, DC 20210

5.5 All decisions by the Administrative Review Board are final.

END

The **City of Austin (OWNER) Construction Training Program (the "Program")** is intended to train workers on City of Austin's construction projects in order to develop a pool of qualified, ready-to-work skilled and semi-skilled construction workers. This training commitment is not intended and shall not be used to discriminate against any applicant.

1. **DEFINITIONS**

1.1 *Capital Contracting Office (CCO)* – The City of Austin's Office responsible for administering the Construction Training Program

1.2 *City's Approved Minimum Wage Rate* – a minimum wage rate established by the City of Austin for workers performing construction activities on City of Austin contracts

1.3 *Construction-Ready Trainee* – a graduate or current trainee of a Pipeline training program, or a graduate or current enrollee in a DOL-registered apprentice program, DOL-approved OJT program, or DOL-certified Bilingual Training Program

1.4 *Pipeline* – group of organizations that provide pre-employment, pre-apprentice, or apprentice readiness training related to construction

1.5 *Training Plan* – a plan identifying how a contractor intends to meet its training requirement, subject to COA review and approval

1.6 *Construction Training Program Reporting Form* – a form provided by the OWNER which documents the contractor's training activities and/or hours worked for each trainee

2. **TRAINEE GOALS**

2.1 The Construction-Ready Trainee requirement for each Work Assignment will be based on the Chart below:

Project (Construction) Budget	Trainee Requirement
$500K to $2.5M	2 Construction-Ready Trainees
Over $2.5M to $5M	4 Construction-Ready Trainees
Over $5M to $10M	6 Construction-Ready Trainees

3. **CONTRACTOR'S RESPONSIBILITIES**

3.1 Prior to the Notice to Proceed for each Work Assignment over $500,000, the CONTRACTOR shall provide a Training Plan for OWNER's approval, specifying how the CONTRACTOR intends to satisfy the requirement. The CONTRACTOR will have fulfilled its responsibilities under Section 00840 of the contract by having complied with the CONTRACTOR's Training Plan as approved by the OWNER.

3.2 In the event that a CONTRACTOR subcontracts a portion of the contract work, CONTRACTOR shall determine if the requirements of the program will be assumed by the subcontractor(s). The CONTRACTOR should ensure that this training provision is made applicable to such subcontract;

however, the CONTRACTOR shall retain the responsibility for meeting the training requirements imposed by this provision.

3.3 Trainee must be paid at least the City's Approved Minimum Wage Rate.

3.4 OWNER will provide a list of available Pipeline organizations. The CONTRACTOR shall contact those Pipeline organizations as needed in order to recruit workers for the program.

3.5 The CONTRACTOR shall submit a Construction Training Program Reporting Form to the CCO monthly for each trainee, as specified in the approved Training Plan. This shall indicate work classification and graduation details, as well as training status changes. The report shall indicate the Work Assignments they are each working on and the number of hours worked for the previous month. If a trainee is terminated or resigns, the CONTRACTOR is required to make a reasonable effort to replace the trainee within 30 calendar days.

3.6 Prior to a worker performing work on the project, the CONTRACTOR must submit to CCO a completed Employee Certification Form for each Trainee.

3.7 **CONTRACTOR's Reasonable Efforts to Comply.** The CONTRACTOR will be responsible for demonstrating the steps taken to meet the trainee requirement. If CONTRACTOR has fewer trainees employed on the project than specified in the Training Plan, the CONTRACTOR must submit evidence of recruitment efforts. These shall include the following:

3.7.1 contacts the OWNER for a current list of approved Pipeline organizations
3.7.2 log of applicants contacted
3.7.3 log of training organizations contacted
3.7.4 document of outreach efforts made to all available training organizations (per current OWNER list) to satisfy the requirement
3.7.5 documentation of CONTRACTOR's recruitment efforts performed until requirements are met or project is complete as part of the Construction Training Program Reporting Form

4. **NON-COMPLIANCE**

4.1 Lack of demonstrated reasonable effort to comply with the Construction Training Program will be reflected in the Contractor's Performance Evaluation and may impact the receipt of future business with the City of Austin.

END

Notice to Bidders: *This form, Addendum, Section 00900, is included for your information only. If an actual Addendum is issued for this project, the format shown below will be used. Additionally, issued addenda will be bound at the beginning of the Project Manual following the Table of Contents at the time of contract execution.*

ADDENDUM NO. _____

Date _____, _____

City of Austin

Project Name _____

C.I.P. No. _____ IFB No.: _____

This Addendum forms a part of the Contract and corrects or modifies original Bid Documents, dated _____, ____ (*first advertisement date)*. **Acknowledge receipt of this addendum in space provided on bid form.** Failure to do so may subject bidder to disqualification.

A. Project Manual Revisions:

B. Drawing Revisions:

This addendum consists of ____ page(s)/sheet(s).

_____
Approved by OWNER

_____
Approved by ENGINEER/ARCHITECT (as applicable per license requirements)

END

SAMPLE

The Work of this Contract includes sustainability requirements as shown in the Division 1 Sections 01352 and/or 01505 and all other applicable specification sections. It is the intent of the Owner to work in partnership with the Contractor in implementing sustainable construction practices to the greatest extent possible.

PART 1 - GENERAL

1.1 Related Documents:

Drawings and general provisions of Contract, including General Conditions, Section 00700, and Supplemental General Conditions, Section 00810, and Division 1 requirements.

1.2 DESCRIPTION OF WORK

1.21 Scope of Work

A. This section describes the Project in general and provides an overview of the extent of the Work to be performed by the CONTRACTOR. Detailed requirements and extent of Work is stated in the applicable Specification Sections and shown on the Drawings. CONTRACTOR shall, except as otherwise specifically stated herein or in any applicable part of these Contract Documents, provide and pay for all labor, materials, equipment, tools, construction equipment, and other facilities and services necessary for proper execution, testing, and completion of the Work.

B. Any part or item of the Work which is reasonably implied or normally required to make the installation satisfactorily operable shall be performed by the CONTRACTOR and the expense thereof shall be included in the applicable unit prices or lump sum prices bid for the Work. It is the intent of these Specifications to provide the OWNER with the complete system. All miscellaneous appurtenances and other items of Work that are incidental to meeting the intent of the Specifications shall be considered as having been included in the applicable unit prices or lump sum prices bid for the Work even though these appurtenances and items may not be specifically called for in the Bid Documents.

C. The Work shall include furnishing all tools, labor, materials, equipment, and miscellaneous items necessary for the complete construction of each Work Assignment .

1.22 Location of Project

A. The Project will consist of multiple Work Assignments, each potentially at a different location. All Work will be within Austin City Limits and the City's Extraterritorial Jurisdiction.

1.23 Contractor's Responsibilities

A. Execute all Work, including excavation, installing pipe, backfill, miscellaneous concrete and testing. The Work of this Contract is specified in the City of Austin Standard Specifications, Special Provisions and Special Specifications listed in the Table of Contents.

B. Secure all construction-related permits, other than those provided by OWNER as described in paragraph 6.6 of Section 00810, Supplemental General Conditions, and pay for the same.

C. Arrange for the necessary temporary water and electric service and pay for these services and all water and electricity consumed during the construction Work.

D. Provide adequate temporary sanitary facilities.

1.24 Easements and Rights-Of-Way

CONTRACTOR shall confine his construction operations within the limits indicated on the Drawings, and shall use due care in placing construction tools, equipment, excavated materials, and pipeline materials and supplies so as to cause the least possible damage to property and interference with traffic. If the CONTRACTOR requires additional easement for his operations, the CONTRACTOR is solely responsible for acquisition and maintenance of the easement. No additional compensation will be provided by the OWNER.

A. Easements - Easements across private property are indicated on the Drawings. CONTRACTOR shall set stakes to mark the boundaries of construction easement across private property. The stakes shall be protected and maintained until completion of construction and cleanup.

B. Rights-of-Way - Permits for Work in rights-of-way shall be obtained by the CONTRACTOR. All Work performed and all operations of CONTRACTOR, his employees, or subcontractors, within the limits of railroad and highway rights-of-way, shall be in conformity with the requirements and be under the control (through OWNER) of the railroad or highway authority owning, or having jurisdiction over and control of, the right-of-way in each case.

1.25 Operation of Existing Facilities

Existing water and wastewater facilities shall be kept in continuous operation throughout the construction period. No interruption will be permitted which adversely affects the degree of service provided. Provided permission is obtained from OWNER in advance, portions of the existing facilities may be taken out of service for short periods corresponding with periods of minimum service demands.

CONTRACTOR shall provide temporary facilities and make temporary modifications as necessary to keep the existing facilities in operation during the construction period.

1.26 Connections to Existing Facilities

Unless otherwise specified or indicated, CONTRACTOR shall make all necessary connections to existing facilities including structures, drain lines, and utilities. In each case, CONTRACTOR shall receive permission from OWNER or the owning utility prior to undertaking connections. CONTRACTOR shall protect facilities against deleterious substances and damage.

Connections to existing facilities which are in service shall be thoroughly planned in advance, and all required equipment, materials and labor shall be on hand at the time of undertaking the connection. Work shall proceed continuously (around the clock) if necessary to complete connections in the minimum time. Operation of valves or other appurtenances on existing utilities, when required, shall be by or under the direct supervision of the owning utility.

1.27 Unfavorable Construction Conditions

No portion of the Work shall be constructed under conditions which adversely affect the quality or efficiency thereof, unless special means or precautions are taken by CONTRACTOR to perform the Work in a proper and satisfactory manner.

1.3 LOCATION OF PROJECT AND WORK ASSIGNMENT PROCESS

A. Each Work Assignment will include a specific location. The OWNER will issue a Work Assignment to the CONTRACTOR providing the scope of Work. The Work Assignment will contain a site drawing, estimated quantities, estimated time of completion and a time/date for a site visit. The CONTRACTOR is required to meet the Project Manager at the site within seven (7) calendar days of the issued Work Assignment.

B. The Work Assignment may include more than one geographical location but within the limits of construction outlined in Section 00020-IDIQ.

C. During the site visit, the CONTRACTOR will confirm the estimated quantities provided by the OWNER and ask for any additional clarifications. Within seven (7) calendar days after the CONTRACTOR's questions are answered, the quantities are confirmed and a final site drawing is forwarded to the CONTRACTOR, the CONTRACTOR will complete and submit a signed Work Assignment Form with comfirnation of the Contract Time and a completed Subcontractor Utilization Form. A Work Assignment Form and Subcontractor Utilization Form are attached to this Section 01010.

D. The pricing for each item must be based on the line item pricing in Section 00300U-IDIQ, Additional items not previously in the Section 00300U-IDIQ must be added to the contract by Change Order in accordance with Sections 00700 and 00810-IDIQ.

E. Once counter-signed by the OWNER, a Work Assignment Form becomes a part of the Contract subject to all terms and conditions of the Contract and shall serve as a Notice to Proceed. The CONTRACTOR is not authorized to perform work until the specific Work Assignment is approved and the Notice to Proceed is issued. Work for each Work Assignment will be authorized under a separate Notice to Proceed. Mobilization must begin within seven (7) calendar days of Notice To Proceed for each Work Assignment.

F. The date that a Work Assignment is signed by the OWNER and delivered to the CONTRACTOR with an accompanying Notice to Proceed will be the commencement date for the purposes of the measurement of Contract Time for that individual Work Assignment. Sample Work Assignment packets are included in the Bid Documents as examples of the Work to be bid.

G. The CONTRACTOR will pay liquidated damages for each consecutive day after the agreed time of completion for each separate Work Assignment unless

otherwise adjusted by OWNER. If time of completion cannot be agreed upon, the CONTRACTOR will proceed with the Work Assignment and within seven (7) calendar days submit a detailed schedule outlining the work items and time of completion for the OWNER's review. If an agreement still cannot be made, the CONTRACTOR may submit a claim as outlined in Item 16.1 of Section 0700, General Conditions of the Contract.

H. CONTRACTOR may be required to work on up to three (3) work assignments at a time unless otherwise agreed to in writing by the OWNER. Work must be continuous on each Work Assignment. CONTRACTOR shall work all locations within the scheduled days and hours required in each Work Assignment.

I. The CONTRACTOR will invoice on a monthly basis. The invoice will contain separate payment estimate sheets for each Work Assignment with a roll-up summary outlining the remaining quantities. Upon completion of each Work Assignment the CONTRACTOR will stamp the invoice for that Work Assignment as FINAL and will provide a lien waiver/release for any future changes to that assignment. Retainage for each Work Assignment will be released with Final Payment for the Work Assignment.

1.4 CONTRACTOR'S RESPONSIBILITIES

A. Execute all Work, as defined in each Work Assignment. The Work of this Contract is specified in the City of Austin Standard Specifications, Special Provisions and Special Specifications listed in the Table of Contents.

B. Secure all construction-related permits, other than those provided by OWNER as described in paragraph 6.6 of Section 00810-IDIQ, Supplemental General Conditions, and pay for the same.

C. Arrange for any necessary temporary facilities as indicated in Section 01500 – Temporary Facilities.

D. Emergency Response - the CONTRACTOR will be required to have management personnel and crew available and on-call at all times during the Contract to provide emergency on-call services. Refer to Special Specification, SS02667, "EMERGENCY WATERLINE REPAIRS" for details.

END

IDIQ WORK ASSIGNMENT & INCORPORATED CHANGE ORDER FORM

Contract No.:_____ Work Assignment No.:_____

TO: _____
contractor name address / telephone / fax / email

FROM: _____
project manager name / address / telephone / fax / email

PROJECT NAME: _____
name / CIP ID number

SCOPE OF WORK:	
PROJECT LOCATION:	
SUBSTANTIAL COMPLETION DAYS (If Applicable):	
FINAL COMPLETION DAYS:	

Bid Items per Section 00300U-IDIQ:

Item #	Description	Quantity	Unit	Unit Cost	Amount
Subtotal					

Change Order in accordance with Sections 00700 and 00810-IDIQ of the Contract

Proposed Item #	Description	Assignment *Qty. Only	Unit	Unit Cost	Amount
Subtotal					

***Quantity will vary for future assignments.**

(Bid Items and Change Order Items) Total $:_____

The following drawings and/or specifications are included by reference and made a part of the contract:

The Change Order agreed to herein constitutes a complete and equitable adjustment to the referenced Contract for the portion of the Work addressed herein and the CONTRACTOR hereby releases the OWNER from any and all liability under the Contract for further equitable adjustments, including additional time for performance, attributable to such facts or circumstances giving rise to this Change Order. Once agreed to by both parties as indicated by the execution of this Work Assignment and incorporated Change Order, the items in the Change Order will become a part of the Contract referenced above. This Change Order does not change the not to exceed Contract Amount.

Signatures

CONTRACTOR agrees that this Work Assignment is a Contract Document and that work performed and payments made pursuant to this Work Assignment shall be subject to the terms and conditions of all other Contract Documents for the Contract referenced above, unless otherwise noted. The CONTRACTOR shall be paid for work described in this Work Assignment, in whole or in part, based on the unit/unit costs as provided in the Bid Form, Section 00300-IDIQ and all Change Orders.

The undersigned, by their signature, represents that they are submitting a binding offer and are authorized to bind the respondent to fully comply with the contract documents contained herein.

CONTRACTOR	Signature/Title:	Date:

Notice to Proceed

When executed by the OWNER and delivered to the CONTRACTOR, the CONTRACTOR is authorized to proceed with Work as described in this Work Assignment, for the amount indicated above, in accordance with the contract referenced above and incorporated herein.

Project Manager	Signature:	Date:
Capital Contracting Office	Signature:	Date:
Inspector	Signature:	Date:
Inspector Supervisor *(required when changes are made to previous Work Assignment)*	Signature:	Date:

Capital Contracting Office

Subcontractor Utilization Form

Contract Development and Administration Division

Project Manager _____ / **Contract Number** _____

Project Location: _____ **Assignment Number** _____

Date: _____ **Submitted by:** _____ **Firm:** _____

Firm	ype	Description of Work	Amount $
<Your Firm Here>		<Brief Description of work to be performed>	$0.00
<Subcontractor 1>		<Brief Description of work to be performed>	$0.00
<Subcontractor 2>		<Brief Description of work to be performed>	$0.00
<Subcontractor 3>		<Brief Description of work to be performed>	$0.00
<Subcontractor 4>		<Brief Description of work to be performed>	$0.00
<Subcontractor 5>		<Brief Description of work to be performed>	$0.00
<Subcontractor 6>		<Brief Description of work to be performed>	$0.00
<Subcontractor 7>		<Brief Description of work to be performed>	$0.00
<Subcontractor 8>		<Brief Description of work to be performed>	$0.00
<Subcontractor 9>		<Brief Description of work to be performed>	$0.00
<Subcontractor 10>		<Brief Description of work to be performed>	$0.00
		TOTAL	**$0.00**

MBE/WBE PARTICIPATION

Please calculate participation percentages for each category, based upon the total dollar amount for certified firms in the specified category divided by the Total Amount of the assignment

	Non - Certified	African American	Hispanic	/ Native American		WBE
This Assignment	***0.00%***	***0.00%***	***0.00%***	***0.00%***		***0.00%***
Compliance Plan	**0.00%**	**0.00%**	**0.00%**	**0.00%**		**0.00%**

See next page for approval signatures

Please provide an explanation for any categories where participation for this assignment is less than the approved Compliance Plan percentages:

I certify that the information listed above has been reviewed and is accurate to the best of my knowledge.

Firm Representative _____ **Date** _____

FOR COA USE ONLY
I have reviewed the Contractor utilization and MBE/WBE participation for this assignment. A copy of this form will be forwarded to the appropriate SMBR Representative

Project Manager: _____ **Date**

1. All survey work will be performed under the direct supervision of a Texas Registered Professional Land Surveyor (RPLS).

2. OWNER will not stake for construction and will not be on site for survey layout activities, except to perform quality control checks.

3. The CONTRACTOR shall furnish, without charge, experienced personnel and such calibrated survey equipment, tools, stakes, and other materials that the Owner's Representative may require in establishing or checking control points, or in checking survey, layout, and measurement work performed by the CONTRACTOR.

4. The CONTRACTOR shall keep the Owner's Representative informed in a reasonable time in advance of the times and places at which he wishes to do work, so that any checking deemed necessary by the OWNER may be done with minimum inconvenience and minimum delay to the CONTRACTOR. Surveying will be coordinated between the Owner's Representative and CONTRACTOR in a manner convenient to both.

5. During layout, CONTRACTOR shall field verify the elevation and alignment of all tie-in points to existing infrastructure. This work shall be performed sufficiently in advance of construction so that any conflicts may be resolved without delay. Any work done without being properly located may be ordered removed and replaced at the CONTRACTOR's expense.

6. The CONTRACTOR shall carefully preserve all monuments, benchmarks, reference points, and stakes. In case of the destruction thereof, the CONTRACTOR shall bear the cost of replacement and shall be responsible for any mistake or loss of time that may be caused. Permanent monuments or benchmarks, which must be removed or disturbed, shall be protected until properly referenced for relocation. The CONTRACTOR shall furnish materials and assistance for the proper replacement of such monuments or benchmarks.

7. The CONTRACTOR shall satisfy himself before commencing work as to the meaning and correctness of all survey control stakes, marks, etc., and no claim will be entertained by the OWNER for or on account of any alleged inaccuracies, unless the CONTRACTOR notifies the OWNER in writing before commencing the affected Work.

8. As needed for necessary documentation of the work progress, the CONTRACTOR shall maintain and/or protect offset or survey staking for the duration of the project. Any re-staking required to meet this requirement shall be done at the CONTRACTOR'S expense.

9. This item will be subsidiary to each individual Work Assignment.

End See attached "Construction Staking Layout Sheet"

CONSTRUCTION STAKING LAYOUT SHEET

Project Name: _____ **Date:** _____
C.I.P. ID#: _____ **Instrument No.:** _____
Person Recording: _____ **Weather Conditions:** _____
Crew Members: _____
General Purpose & Scope of Survey: _____

STATION	B.S.	H.I.	F.S.	LEVEL LOOP ELEVATION	ROD READING	HUB ELEVATION AT STATION	(TARGET) (eg., pipe invert) ELEVATION	C - CUT OR F - FILL	% GRADE	NOTES: INDICATE WHETHER CENTERLINE HUB OR _____ FT. OFFSET HUB

DEFINITIONS

General: Basic Contract definitions are included in the General Conditions, Section 00700 included herein.

Approved: The term approved, when used in conjunction with the Owner's Representative's action on the CONTRACTOR'S submittals, applications, and requests, is limited to the Owner's Representative's duties and responsibilities as stated in the Conditions of the Contract. A stamp reading "No Exceptions Taken" shall have the same intent as "Approved".

Furnish: The term furnish means supply and deliver to the Project site, ready for unloading, unpacking, assembly, installation, and similar operations.

Indicated: The term indicated refers to graphic representations, notes, or schedules on the Drawings, or other paragraphs or schedules in the Specifications, and similar requirements in the Contract Documents. Terms such as shown, noted, scheduled, and specified are used to help the reader locate the reference. There is no limitation on location.

Install: The term install describes operations at the Project site including the actual unloading, unpacking, assembly, erecting, placing, anchoring, applying, working to dimension, finishing, curing, protecting, cleaning, and similar operations.

Installer: An Installer is the CONTRACTOR or another entity engaged by the CONTRACTOR, either as an employee, subcontractor, or contractor of lower tier, to perform a particular construction activity, including installation, erection, application, and similar operations. Installers are required to be experienced in operations they are engaged to perform.

Project Site: The space available to the CONTRACTOR for performing construction activities either exclusively or in conjunction with others performing other work as part of the Project. The extent of the Project site is shown on the Drawings and may or may not be identical with the description of the land on which the Project is to be built.

Provide: The term provide means to furnish and install, complete and ready for the intended use.

Regulations: The term regulations includes laws, ordinances, statutes, and lawful orders issued by authorities having jurisdiction, as well as rules, conventions, and agreements within the construction industry that control performance of the Work.

Trades: Using terms such as carpentry is not intended to imply that certain construction activities must be performed by accredited or unionized individuals of a corresponding generic name, such as carpenter. It also does not imply that requirements specified apply exclusively to trades persons of the corresponding generic name.

INDUSTRY STANDARDS

Applicability of Standards: Except where the Contract Documents include more stringent requirements, applicable construction industry standards have the same force and effect as if bound or copied directly into the Contract Documents to the extent referenced. Such standards are made a part of the Contract Documents by reference.

Publication Dates: Comply with the standards in effect as of the date of the Contract Documents.

Conflicting Requirements: Where compliance with two or more standards is specified and where the standards may establish different or conflicting requirements for minimum quantities or quality levels, refer to the Owner's Representative for a decision before proceeding.

Copies of Standards: Each entity engaged in construction on the Project is required to be familiar with industry standards applicable to its construction activity. Copies of applicable standards are not bound with the Contract Documents.

Abbreviations and Names: Trade association names, titles of general standards, and names and titles of government agencies are frequently abbreviated. Where such acronyms or abbreviations are used in the Specifications or other Contract Documents, they mean the recognized name of the trade association, standards-generating organization, authority having jurisdiction, or other entity applicable to the context of the text provision. Refer to the "Encyclopedia of Associations," published by Gale Research Co., available in most libraries.

AA	Aluminum Association
AABC	Associated Air Balance Council
AAMA	American Architectural Manufacturer's Association
AAN	American Association of Nurserymen.
AASHTO	American Association of State Highway and Transportation Officials.
AATCC	American Association of Textile Chemists and Colorists
ACI	American Concrete Institute
ACIL	American Council of Independent Laboratories
ACPA	American Concrete Pipe Association
ADC	Air Diffusion Council
AFBMA	Anti-Friction Bearing Manufacturers Association
AGA	American Gas Association
AGC	Associated General Contractors of America
AGMA	American Gear Manufacturers Association
AHA	American Hardboard Association
AHAM	Association of Home Appliance Manufacturers
AI	Asphalt Institute
AIA	American Institute of Architects
AIHA	American Industrial Hygiene Association
AISC	American Institute of Steel Construction
AISI	American Iron and Steel Institute
AITC	American Institute of Timber Construction.
ALCA	Associated Landscape Contractors of America
ALI	Associated Laboratories, Inc.
ALSC	American Lumber Standards Committee
AMCA	Air Movement and Control Association
ANSI	American National Standards Institute.

AOAC	Association of Official Analytical Chemists
AOSA	Association of Official Seed Analysts
APA	American Plywood Association
API	American Petroleum Institute.
AREA	American Railroad Engineers Association
ARI	Air Conditioning and Refrigeration Institute
ARMA	Asphalt Roofing Manufacturers Association
ASA	Acoustical Society of America
ASA	American Standards Association.
ASC	Adhesive and Sealant Council
ASCE	American Society of Civil Engineers
ASHRAE	American Society of Heating, Refrigerating & Air Conditioning Engineers
ASME	American Society of Mechanical Engineers
ASPE	American Society of Plumbing Engineers
ASSE	American Society of Sanitary Engineering
ASTM	American Society for Testing and Materials.
AWCMA	American Window Covering Manufacturers Association
AWG	American Wire Gage
AWI	Architectural Woodwork Institute
AWPA	American Wood Preservers Association
AWPB	American Wood Preservers Bureau
AWPI	American Wood Preservers Institute
AWS	American Welding Society
AWWA	American Water Works Association
BHMA	Builders Hardware Manufacturers Association
BIA	Brick Institute of America
BIFMA	Business and Institutional Furniture Manufacturers Association
CAGI	Compressed Air and Gas Institute
CAUS	Color Association of the United States
CBM	Certified Ballast Manufacturers

CCC	Carpet Cushion Council
CDA	Copper Development Association
CE	Corps of Engineers
CFR	Code of Federal Regulations
CGA	Compressed Gas Association
CISCA	Ceiling and Interior Systems Construction Association
CISPI	Cast Iron Soil Pipe Institute
CPSC	Consumer Product Safety Commission
CRI	Carpet and Rug Institute
CRSI	Concrete Reinforcing Steel Institute
CS	Commercial Standard of NBS (U.S. Dept. of Commerce)
CTI	Ceramic Tile Institute
DFPA	Douglas Fir Plywood Association
DHI	Door and Hardware Institute
DLPA	Decorative Laminate Products Association
DOC	U.S. Department of Commerce
DOT	Department of Transportation
ECSA	Exchange Carriers Standards Association
EIA	Electronic Industries Association
EIMA	Exterior Insulation Manufacturers Association
EJMA	Expansion Joint Manufacturers Association
EPA	Environmental Protection Agency
FAA	Federal Aviation Administration
FCC	Federal Communications Commission
FGMA	Flat Glass Marketing Association
FHA	Federal Housing Administration
FM	Factory Mutual Research Organization
FS	Federal Specifications
FSC	Forest Stewardship Council
FTI	Facing Tile Institute

GA	Gypsum Association
GSA	General Services Administration
HEI	Heat Exchange Institute
HI	Hydronics Institute
H.I.	Hydraulic Institute
HMA	Hardwood Manufacturers Association
HPMA	Hardwood Plywood Manufacturers Association
IBD	Institute of Business Designers
ICEA	Insulated Cable Engineers Association, Inc.
IEEE	Institute of Electrical and Electronic Engineers, Inc.
IESNA	Illuminating Engineering Society of North American
IGCC	Insulating Glass Certification Council
ILI	Indiana Limestone Institute of America
IMSA	International Municipal Signal Association
IRI	Industrial Risk Insurers
ISA	Instrument Society of America
ITE	Institute of Transportation Engineers
LEED™	Leadership in Energy and Environmental Design
LIA	Lead Industries Association, Inc.
LPI	Lightning Protection Institute
MBMA	Metal Building Manufacturer's Association
MCAA	Mechanical Contractors Association of America
MFMA	Maple Flooring Manufacturers' Association
MIA	Marble Institute of America
ML/SFA	Metal Lath/Steel Framing Association
MSS	Manufacturers Standardization Society of the Valve and Fittings Industry
MUTCD	Texas Department of Transportation Manual on Uniform Traffic Control Devices
NAAMM	National Association of Architectural Metal Manufacturers
NAIMA	North American Insulation Manufacturers Association
NAPA	National Asphalt Pavement Association

NBFU	National Board of Fire Underwriters
NBGQA	National Building Granite Quarries Association
NBS	National Bureau of Standards (U.S. Dept. of Commerce)
NCMA	National Concrete Masonry Association
NCRPM	National Council on Radiation Protection and Measurements
NCSPA	National Corrugated Steel Pipe Association
NEC	National Electrical Code (Published by NFPA)
NECA	National Electrical Contractors Association
NEII	National Elevator Industry, Inc.
NEMA	National Electrical Manufacturers Association
NETA	International Electrical Testing Association
N.F.P.A.	National Forest Products Association
NFPA	National Fire Protection Association
NHLA	National Hardwood Lumber Association
NIST	National Institute of Standards and Technology
NLGA	National Lumber Grades Authority
NOFMA	National Oak Flooring Manufacturers Association
NPA	National Particleboard Association
NPCA	National Paint and Coatings Association
NRCA	National Roofing Contractors Association
NWMA	National Woodwork Manufacturers Association
OSHA	Occupational Safety and Health Administration
PCA	Portland Cement Association
PCI	Precast/Prestressed Concrete Institute
PDI	Plumbing and Drainage Institute
PE	Professional Engineer
REA	Rural Electrification Administration
RFCI	Resilient Floor Covering Institute
RMA	Rubber Manufacturing Association
RPLS	Registered Professional Land Surveyor

SDI	Steel Deck Institute
S.D.I.	Steel Door Institute
SFPA	Southern Forest Products Association
SGCC	Safety Glazing Certification Council
SIGMA	Sealed Insulating Glass Manufacturers Association
SJI	Steel Joist Institute
SMACNA	Sheet Metal and Air Conditioning Contractors National Association
SPIB	Southern Pine Inspection Bureau
SPRI	Single Ply Roofing Institute
SSPC	Steel Structures Painting Council
SSPMA	Sump and Sewage Pump Manufacturers Association
SWI	Steel Window Institute
SWPA	Submersible Wastewater Pump Association
TCA	Tile Council of America
TEX TEST	TxDOT Laboratory Test
TIMA	Thermal Insulation Manufacturers Association
TPI	Truss Plate Institute
TxDOT	Texas Department of Transportation
UL	Underwriters Laboratory, Inc.
USDA	U. S. Department of Agriculture
USGBC	U. S. Green Building Council
USPS	U. S. Postal Service
WCLIB	West Coast Lumber Inspection Bureau
WCMA	Wallcovering Manufacturers Association
WIC	Woodwork Institute of California
WLPDIA	Western Lath, Plaster, Drywall Industries Association
WRI	Wire Reinforcement Institute
WSC	Water Systems Council
WSFI	Wood and Synthetic Flooring Institute
WWPA	Western Wood Products Association
W.W.P.A.	Woven Wire Products Association

END

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

Documents related to this section will include the construction drawings and general provisions of the Contract, including the General Conditions, Section 00700, Supplemental General Conditions, Section 00810, and other Division 1 requirements.

1.2 SUMMARY

A. This section describes the preconstruction conference and other Project related meetings which may be held on a routine schedule throughout the duration of the Project.

B. The CONTRACTOR, or his authorized representative(s), shall attend all Project related meetings as indicated herein. The CONTRACTOR's representatives, as a minimum, shall include his Project Manager and Superintendent. Other CONTRACTOR's representatives may attend Project related meetings; however, there shall be a maximum of four (4) CONTRACTOR's representatives at any one meeting unless the ENGINEER/ARCHITECT approves a larger number.

C. The CONTRACTOR shall provide all pertinent reports, copies of reports, etc., for each meeting as may be required by this or other sections of the Contract.

1.3 PRECONSTRUCTION CONFERENCE

A. Attendees

A preconstruction conference shall be held as soon after the award and execution of the Contract as possible and before any Work at the site is started. The conference will be held at a location selected by the Owner's Project Manager. The Owner's Project Manager shall prepare and distribute the meeting agenda, preside over the conference, and may distribute meeting minutes. The conference shall be attended by:

1. CONTRACTOR's Project Manager.
2. CONTRACTOR's Superintendent.
3. Any Subcontractors' and/or Suppliers' representatives whom the CONTRACTOR may desire to invite or whom the ENGINEER/ARCHITECT or OWNER may request to attend.
4. ENGINEER/ARCHITECT's representative.
5. OWNER's Project Manager.
6. OWNER's REPRESENTATIVE
7. OWNER's Sponsor Department Representative.
8. Representative from the City of Austin, Transportation Department if a traffic management plan is required.
9. Representative from the City of Austin, Watershed Protection and Development Review Department, Environmental Inspection Division, if site erosion / sedimentation controls are required.
10. Representative from the City of Austin, Transportation Department if utility coordination has occurred through the Austin Utility Location and Coordination Committee.
11. Representative from the City of Austin, Contract Management Department, Contract Administration Division, to discuss wage.

12. Representative from the City of Austin, Small and Minority Business Resources Department to discuss M/WBE compliance.

B. Meeting topics

The topics to be discussed may include, but will not be limited to, the following items:

1. Introduction of persons attending the meeting.
2. General project description, including length of contract and liquidated damages.
3. Key personnel associated with the construction (may include, but is not limited to the following):
   - CONTRACTOR's Project Manager
   - CONTRACTOR's Superintendent
   - OWNER's Project Manager
   - ENGINEER/ARCHITECT's representative
   - OWNER's Sponsor Department Representative.
   - Representatives of the various utilities.
4. Lines of communication and chains of command.
5. Wage and personnel records and reporting requirements.
6. Subcontractors and suppliers.
7. Submittal review and approval procedure. Submittals may include, but are not limited to the following:
   - Letter stating the name and qualifications of the CONTRACTOR's Superintendent
   - Letter(s) from the Subcontractor(s) listing their salaried specialists
   - If applicable, a letter designating the Registered Professional Land Surveyor
   - If applicable, a letter designating the Safety Representative (for general project safety) and the "Competent Person" for excavation safety
   - Excavation Safety Systems Plan
   - Schedule of Values
   - Schedule for submittals
   - Shop drawings
   - Construction schedule (The schedule shall indicate the phases of work in which subcontractors will be participating. Subcontractors shall be indicated by name.)
   - Payroll reports
   - Substitution of subcontractors
   - Non-use of asbestos materials affidavit
   - Appropriate safety training certificates for workers that will initially be on site
   - Documentation for all workers initially on site who are governed by a prevailing wage classification as described in Section 00830.
   - Construction Equipment Emissions Reduction Plan
8. Job and traffic safety.
9. Permits.
10. Utility coordination report.
11. Notification of property owners and other affected by the project

12. Job meetings.
13. Use of the site for construction, storage, staging, etc., and interrelationship with other contracts.
14. Equal opportunity requirements.
15. Laboratory testing of material requirements.
16. Inventory of materials stored on site provisions.
17. Progress estimate and payment procedure.
18. Posting of signs.
19. Project safety.
20. Prompt payment procedure.
21. Review of contract - addenda, supplementary general conditions, special provisions, special specifications, and other unique project items.
22. Other

1.4 JOB MEETINGS

A. General

Job meetings shall be held as deemed necessary by the ENGINEER/ARCHITECT or OWNER or as requested by the CONTRACTOR throughout the duration of the Project. The meetings shall be held at a location selected by or approved by the Owner's Representative. The OWNER's REPRESENTATIVE or CONTRACTOR, as agreed to, shall preside over the meeting and issue meeting minutes.

B. Attendees

Job meetings will be attended by the following:

1. CONTRACTOR's Project Manager, when requested to attend.
2. CONTRACTOR's Construction Superintendent.
3. Any subcontractors' and/or suppliers' representatives whom the CONTRACTOR may desire to invite or whom the ENGINEER/ARCHITECT or OWNER requests to attend.
4. OWNER's REPRESENTATIVE
5. ENGINEER/ARCHITECT's representative(s), if needed or required.
6. OWNER's PROJECT MANAGER, if needed or required
7. OWNER's Sponsor Department representative(s), if needed or required.

C. Meeting topics

The topics will include, but not necessarily be limited to, the following subjects:

1. Review of previous meetings' notes and update of pertinent information and Project status.
2. Identification and discussion of new job related construction problems. Such discussion will be toward resolving identified problems.
3. Review work accomplished to date and establish proposed construction activities for the upcoming week(s).
4. Discuss the status of or need for change orders.
5. Check of required bonds and insurance certificates (including Workers' Compensation Insurance verification for CONTRACTOR's, Subcontractor's, and Sub-Subcontractor's employees as stated in Section 00700, General Conditions, 5.2 Workers' Compensation).

6. Status of pay requests.
7. Work in progress.
8. Review and update construction schedule.
9. Review of submittals schedule and status of submittals.
10. Status of SMBR Compliance Plan.
11. Status of Safety Training certificates for all new workers on project.
12. Other.

1.5 OTHER MEETINGS

Other meetings shall be held from time to time as may be requested by the CONTRACTOR, the ENGINEER/ARCHITECT, or the OWNER. The time and place of the meetings shall be as mutually agreed upon. The attendance at the meetings shall be as requested by the party requesting the meeting.

END

PART 1 - GENERAL

1.1 RELATED DOCUMENTS:

The Contractor prepares submittals. Drawings and general provisions of Contract, including Section 00700, “General Conditions”; Section 00810, “Supplemental General Conditions”; Division 1 requirements and City of Austin Technical Specifications and Special Provisions thereto, should be used as the related documents for this requirement.

1.2 SUMMARY

A. This Section includes administrative and procedural requirements for submittals required for performance of the Work, including the following:

1. Security plan.
2. Contractor's construction schedule.
3. Submittal schedule.
4. Shop drawings.
5. Product data.
6. Samples.
7. Quality assurance and quality control submittals, including calculations, mix designs and substantiating test results.

B. Administrative Submittals: Refer to other Division 1 Sections and other Contract Documents for requirements for administrative submittals. Such submittals include, but are not limited to, the following:

1. Permits.
2. Applications for Payment.
3. Performance and Payment bonds.
4. Insurance certificates.
5. Monthly Subcontractors expense report.
6. Non-use of asbestos affidavits

C. Related Sections: The following Sections contain requirements that relate to this Section:

1. Section 00700, “General Conditions”; Section 00810, “Supplemental General Conditions”; and/or Division 1, Section 01025, "Measurement and Payment" specifies requirements for submittal of the Schedule of Values.

2. Division 1, Section 01200, "Project Meetings" specifies requirements for submittal and distribution of meeting and conference minutes.

3. Section 00700, “General Conditions”; Section 00810, “Supplemental General Conditions”; and/or Division 1, Section 01700, "Contract Close-out" specifies requirements for submittal of Project Record Documents and warranties at project close-out.

4. Section 00700, “General Conditions” Article 6.2.4 specifies requirements for Substitutes and “Approved Equal” Items.

D. Technical Submittals: Technical information required to be submitted by the Standard Specifications, Special Provisions or Special Specifications.

PART 2 - PRODUCTS - not used

PART 3 - EXECUTION

3.1 SUBMITTAL PROCEDURES

Contractor shall be responsible for the following:

A. Coordination: Coordinate preparation and processing of submittals with performance of construction activities. Transmit each submittal sufficiently in advance of performance of related construction activities to avoid delay.

1. Coordinate each submittal with fabrication, purchasing, testing, delivery, other submittals, and related activities that require sequential activity.

2. Coordinate transmittal of different types of submittals for related elements of the Work so processing will not be delayed by the need to review submittals or resubmittals concurrently.

   a. The E/A reserves the right to withhold action on a submittal requiring coordination with other submittals until all related submittals are received.

3. Processing: To avoid the need to delay installation as a result of the time required to process submittals, allow sufficient time for submittal review, including time for resubmittals.

   a. Allow fourteen (14) calendar days for initial review. Allow additional time if the Engineer must delay processing to permit coordination with subsequent submittals.

   b. If an intermediate submittal is necessary, process the same as the initial submittal.

   c. Allow fourteen (14) calendar days for processing each resubmittal.

   d. No extension of Contract Time will be authorized because of failure to transmit submittals to the E/A sufficiently in advance of the Work to permit processing.

B. Submittal Preparation: Place a permanent label or title block on each submittal for identification. Indicate the name of the entity that prepared each submittal on the label or title block.

1. Provide a space approximately 4 inches by 5 inches (100 by 125 mm) on the label or beside the title block on Shop Drawings to record the Contractor's review and approval markings and the action taken.

2. Include the following information on the label for processing and recording action taken.

   a. Project name.
   b. Date.
   c. Name and address of the Contractor’s Engineer.
   d. Name and address of the Contractor.
   e. Name and address of the subcontractor.
   f. Name and address of the supplier.
   g. Name of the manufacturer.
   h. Number and title of appropriate Specification Section.
   i. Drawing number and detail references, as appropriate.

C. Number of Copies:

1. Two (2) copies of the proposed Construction schedule and subsequent revision are required.

2. Two (2) copies of the proposed Submittal schedule and subsequent revision are required.

3. Nine (9) copies of Shop Drawings, Product, Product Samples, Quality Assurance and Quality Control submittals are required.

D. Submittal Transmittal: Package each submittal appropriately for transmittal and handling. Transmit each submittal from the Contractor to the E/A through the Owner's Representative using a transmittal form (An example Transmittal Form is provided at the end of this section). The E/A will not accept submittals received from sources other than the Contractor.

1. On the transmittal, record relevant information and requests for data. On the form, or separate sheet, record deviations from Contract Document requirements, including variations and limitations. Include Contractor's certification that information complies with Contract Document requirements.

2. Number transmittals in sequence for each Series of the Specifications thus: x-xxx. The number after the dash indicates the Section of the Specifications, and the number before the dash is the sequence number of the transmittal. For example, the first item submitted related to Specification Item No. 506, "Manholes" would be labeled **1-506**, the second item submitted would be labeled **2-506**, etc. If the submittal item relates to a Special Provision or Special Specification, use **SP506** or **SS5061**, for example, to indicate the applicable Specification Section. Identify resubmittals with a letter of the alphabet following the original sequence number, using "A" for the first resubmittal, "B" for the second resubmittal, etc. For example, the first resubmittal of the second item submitted for Specification SP506 would be labeled **2A-SP506**.

3.2 CONTRACTOR'S CONSTRUCTION SCHEDULE

A. Construction Schedule: As described in Section 2.4.2 of Section 00700 "General Conditions", prepare a fully developed Contractor's construction schedule ("Baseline Schedule") using Microsoft Project© software unless otherwise approved by Owner's Representative. Submit Baseline Schedule prior to or at the preconstruction conference, and submit updated schedules as specified by the E/A, usually at each regularly scheduled Project Meeting and with each pay application.

1. Detail each significant construction activity and use a weekly timeframe for the schedule. Use the same breakdown of units of the Work as indicated in the "Schedule of Values."

2. With each update, revise task completion percentage and mark completed tasks.

3. Prepare the schedule on a sheet, or series of sheets, of stable transparency, or other reproducible media, of sufficient width to show data for the entire construction period.

4. Secure time commitments for performing critical elements of the Work from parties involved. Coordinate each element on the schedule with other construction activities; include minor elements involved in the sequence of the Work. Show each activity in proper sequence. Indicate graphically the critical path items and the sequences necessary for completion of related portions of the Work.

5. Indicate the phases of work in which subcontractors will be participating. Subcontractors shall be indicated by name.

6. Coordinate the Contractor's Construction Schedule with the Schedule of Values, list of subcontracts, Submittal Schedule, progress reports, payment requests, and other schedules.

7. Indicate substantial completion in advance of the date established for Final Completion to allow time for the E/A's procedures necessary for certification of Substantial and Final Completion.

B. Work Stages: Indicate important stages of construction for each major portion of the Work, including submittal review, testing, and installation.

C. Cost Correlation: Within the Baseline Schedule, provide cost information indicating planned and actual costs. On the appropriate task line(s), show dollar volume of Work performed as of the dates used for preparation of applications for payment. Refer to Section 00700, "General Conditions", Article 14 Payment to Contractor and Completion for cost reporting and payment procedures.

D. Distribution: Following response to the Baseline Schedule submittal, distribute electronic copies to the E/A, subcontractors, suppliers, and other parties required to comply with scheduled dates. Keep a copy at the Project Site at all times.

1. When revisions are made, distribute to the same parties and post in the same locations. Delete parties from distribution when they have completed their assigned portion of the Work and are no longer involved in construction activities.

E. Schedule Updating: Revise the schedule after each meeting, event, or activity where revisions have been recognized or made and as requested by the E/A. Issue the updated schedule concurrently with the report of each meeting, or as requested by the E/A.

3.3 SUBMITTAL SCHEDULE

A. Concurrently with the development of the Contractor's Construction Schedule, prepare a complete schedule of submittals. Submit the initial Submittal Schedule along with the Construction Schedule, at, or prior to, the Pre-construction Conference.

1. Coordinate Submittal Schedule with the list of subcontractors, Schedule of Values, and the list of products as well as the Contractor's Construction Schedule.

2. Prepare the schedule in chronological order. Provide the following information:

a. Scheduled date for the first submittal.
b. Related Section number or Specification number.
c. Submittal category (Shop Drawings, Product Data, Calculations, Test Results, or Samples).
d. Name of the subcontractor.
e. Description of the part of the Work covered.
f. Scheduled date for resubmittal.
g. Scheduled date for completion of the E/A's review.

B. Contractor's schedule of submittals will be reviewed to verify that the list of submittals provided is all inclusive and the schedule is reasonable and realistic for delivery of the project. Owner will provide a response to the Contractor based on the assessment of the schedule of submittals.

C. Distribution: Upon Owner's agreement with the schedule of submittals, print and distribute copies to the Owner's Representative, E/A, Owner, subcontractors, suppliers, and other parties required to comply with submittal dates indicated. Keep copies at the Project Site at all times.

1. When revisions are made, distribute to the same parties and post in the same locations. Delete parties from distribution when they have completed their assigned portion of the Work and are no longer involved in construction activities.

D. Schedule Updating: Revise the schedule after each meeting or activity where revisions have been recognized or made. Issue the updated schedule concurrently with the report of each meeting, or as requested by the E/A.

3.4 CONSTRUCTION SEQUENCE PLANS

The Contractor is required to submit construction sequence plans to the City at, or prior to, the pre-construction conference for approval. The Project shall be divided into phases according to the sequence of construction given in the Drawings and traffic control plans. The Contractor shall arrange his/her work schedule to complete all Work on each phase, including street repair, any valve casting or manhole adjustments, and street overlay before moving on to the next work area.

3.5 SHOP DRAWINGS

A. Submit newly prepared information drawn accurately to scale. Highlight, circle, or otherwise indicate deviations from the Contract Documents. Do not reproduce Contract Documents or copy standard information as the basis of Shop Drawings. Standard information prepared without specific reference to the Project is not a Shop Drawing.

B. Shop Drawings include fabrication and installation Drawings, setting diagrams, schedules, patterns, templates and similar Drawings. Include the following information:

1. Dimensions;
2. Identification of products and materials included by sheet and detail number;
3. Compliance with specified standards;
4. Notation of coordination requirements; and
5. Notation of dimensions established by field measurement.
6. Sheet Size: Except for templates, patterns and similar full-size Drawings, submit Shop Drawings on sheets at least 8-1/2 inches by 11 inches but no larger than 24 inches by 36 inches.
7. Do not use Shop Drawings without an appropriate stamp indicating action taken.

3.6 PRODUCT DATA

A. Collect Product Data into a single submittal for each element of construction or system. Product Data includes printed information, such as manufacturer's installation instructions, catalog cuts, standard color charts, roughing-in diagrams and templates, standard wiring diagrams, applicable certifications and performance curves.

1. Mark each copy to show applicable choices and options. Where printed Product Data includes information on several products that are not required, mark copies to indicate the applicable information. Include the following information:

   a. Manufacturer's printed recommendations;
   b. Compliance with trade association standards;
   c. Compliance with recognized testing agency standards;
   d. Application of testing agency labels and seals;
   e. Notation of dimensions verified by field measurement; and
   f. Notation of coordination requirements.

2. Do not submit Product Data until compliance with requirements of the Contract Documents has been confirmed.

3. Distribution: Furnish copies of final submittal to installers, subcontractors, suppliers, manufacturers, fabricators, and others required for performance of construction activities. Show distribution on transmittal forms.

   a. Do not proceed with installation until a copy of the final submission of Product Data is in the Installer's possession.

   b. Do not permit use of unmarked copies of Product Data in connection with construction.

4. Potable Water, Reclaimed Water, and Wastewater Items or Projects: The Contractor shall submit descriptive information and evidence that the materials and equipment

the Contractor proposes for incorporation into the Work is of the kind and quality that satisfies the specified functions and quality. **Austin Water Utility Standard Products Lists (SPL)** are a part of the Specifications. Contractors shall use products specified in the Contract Documents, listed on the SPLs, or approved by AWU through the process in Section 2.4.0 of the Utilities Criteria Manual. Products contained in the SPL cannot be substituted for items shown on the Drawings, or called for in the specifications, unless approved by the E/A in conjunction with the Austin Water Utility Standards Committee. **Unless otherwise specified,** products current at the time of solicitation shall be installed except where an updated List has been issued to remove a product because of quality or performance issues.

3.7 SAMPLES

A. Submit full-size, fully fabricated Samples cured and finished when specified and physically identical with the material or product proposed. Samples include partial sections of manufactured or fabricated components, cuts or containers of materials, color range sets, and swatches showing color, texture, and pattern.

1. Mount or display Samples in the manner to facilitate review of qualities indicated. Include the following:

   a. Specification Section number and reference;
   b. Generic description of the Sample;
   c. Sample source;
   d. Product name or name of the manufacturer;
   e. Compliance with recognized standards; and
   f. Availability and delivery time.

2. Submit Samples for review of size, kind, color, pattern, and texture. Submit Samples for a final check of these characteristics with other elements and a comparison of these characteristics between the final submittal and the actual component as delivered and installed.

   a. Where variation in color, pattern, texture, or other characteristic is inherent in the material or product represented, submit at least 3 multiple units that show approximate limits of the variations.

   b. Refer to other Specification Sections for requirements of Samples that illustrate workmanship, fabrication techniques, details of assembly, connections, operation, and similar construction characteristics.

   c. Refer to other Sections for Samples to be returned to the Contractor for incorporation in the Work. Such Samples must be undamaged at time of use. On the transmittal, indicate special requests regarding disposition of Sample submittals.

   d. Samples not incorporated into the Work, or otherwise designated as the Owner's property, are the property of the Contractor and shall be removed from the site prior to Substantial Completion.

3. Maintain sets of Samples, as returned, at the Project Site, for quality comparisons throughout the course of construction.

   a. Unless noncompliance with Contract Document provisions is observed, the submittal may serve as the final submittal.

   b. Sample sets may be used by Owner for final acceptance of the construction associated with each set.

B. Distribution of Samples: Prepare and distribute additional sets to subcontractors, manufacturers, fabricators, suppliers, installers, and others as required for performance of the Work. Show distribution on transmittal forms.

3.8 QUALITY ASSURANCE AND QUALITY CONTROL SUBMITTALS

A. Submit quality assurance and quality control submittals, including design data, certifications, manufacturer's instructions, manufacturer's field reports, materials test results, field testing and inspection reports, and other quality-control submittals as required under other Sections of the Specifications.

B. Certifications: Where other Sections of the Specifications require certification that a product, material, or installation complies with specified requirements, submit a certification from the manufacturer or responsible Engineer certifying compliance with specified requirements.

   1. Signature: Certification shall be signed by an officer of the corporation or other individual authorized to sign documents on behalf of the company.

C. Calculations: When required in the technical specification, calculations shall be prepared and stamped by a Professional Engineer registered in the State of Texas.

D. Concrete, Controlled Low Strength Material, Asphalt Stabilized Base and Hot Mix Asphaltic Concrete Mix Designs and Substantiating Test Data: Requirements for submittal of mix designs and substantiating test data are specified in the applicable Technical Specification Section. Each separate batch plant supplying ASB, HMAC and/or concrete shall submit mix designs to the Owner's Representative for review.

3.9 ENGINEER/ARCHITECT'S ACTION

A. Except for submittals, for the record, or for information where action and return is not required, the E/A will review each submittal, mark to indicate action taken, and return within the time frame specified in Paragraph 3.1.A.3.

   1. Compliance with specified characteristics is the Contractor's responsibility.

B. Action Stamp: The E/A will stamp each submittal with a uniform, action stamp. The E/A will mark the stamp appropriately to indicate the action taken, as follows:

   1. "Reviewed": the Work covered by the submittal may proceed provided it complies with requirements of the Contract Documents. Final payment depends on that compliance.

   2. "Reviewed with Comments": the Work covered by the submittal may proceed provided it complies with notations or corrections on the submittal and requirements of the Contract Documents. Final payment depends on that compliance.

   3. "Revise and Resubmit" or "Rejected": do not proceed with Work covered by the submittal, including purchasing, fabrication, delivery, or other activity. Revise or prepare a new submittal according to the notations and resubmit without delay. Repeat if necessary to obtain different action mark.

      a. Do not use, or allow others to use, submittals marked "Revise and Resubmit" or "Rejected" at the Project Site or elsewhere where Work is in progress.

   4. Other Action: Where a submittal is for information, or for record purposes, or for special processing, or for other activity, the E/A will return the submittal marked "Record Copy", "Action Not Required" or "No Action Taken."

C. Unsolicited Submittals: The E/A will return unsolicited submittals to the sender without action.

3.10 PREPARATION AND SUBMITTAL OF CONSTRUCTION RECORD DRAWINGS

The Owner's Representative and the Contractor's Superintendent will each maintain a set of bluelines noting any changes in ink during construction of the Project. The Owner's Representative and the Contractor's Superintendent will compare bluelines at least weekly (at a time mutually acceptable to both) to exchange information and compare notes to ensure all items installed and changes are documented. The following is a recommended minimum of items to be noted:

GENERAL

1. Notes should be sufficiently clear to allow a draftsperson to easily make the necessary changes without the need for field checks and interpretation.
2. One complete set of Construction Record bluelines will be submitted prior to the final pay request and forwarded to the Owner.

STREET RECONSTRUCTION AND OVERLAY PROJECTS

1. Location, type, and quantity of all work added or deleted from the Project including repair areas, milled areas, sidewalk, ramps, curb and gutter, etc.
2. Deviations in street, sidewalk, curb and gutter location and grades from Drawings.

WATER/WASTEWATER PROJECTS

1. Type, name and model numbers of all valves (with # of turns to open/close), air release valves, drain and fire hydrants noted at locations installed.
2. Installed locations of all assignments, appurtenances and elevations which differ from those indicated on the Drawings.
3. Pipe manufacturer type and classification noted in sufficient detail to determine location and extent of each type or classification installed.
4. Modification to any standard or special details noted.
5. Location and description of pipe closures.
6. Thrust blocking locations and restrained pipe lengths, approximate dimensions and quantities noted.
7. Location, type and quantity of all addition and deletions.
8. Changes in grade.

The above list is not intended to be complete. Any information noted which could be used for future maintenance, location and construction projects is encouraged to be noted on the bluelines.

3.11 CONSTRUCTION DIARIES

The Contractor shall prepare a daily construction diary recording as a minimum the following information concerning events at the site and submit duplicate copies to the Owner's Representative at weekly intervals. The copies are to be signed by the project Superintendent as defined in Section 00700, Article 6.1.2.

1. Work performed;
2. Approximate count of Contractor's personnel, by classification, on the site;
3. List by classification, of all Subcontractors, personnel and any professionals on the site that day;
4. List of all equipment on the site by make and model;
5. High and low temperatures together with general weather conditions;
6. Start time and finish time of day's work;
7. Accidents and / or unusual events;
8. Meetings and significant decisions made;
9. Stoppages, delays, shortages and / or losses;
10. Meter readings and / or similar recordings;
11. Emergencies procedures that may have been needed;
12. Orders and requests of governing authorities;
13. Change Orders received and implemented;

14. Services connected and / or disconnected;
15. Installed equipment and / or system tests and / or startups and results;
16. Partial completions and / or occupancies; and
17. Date of substantial completion certified.

Shop Drawing Transmittal

Month XX, 2008

Transmittal No. _____
Previous Transmittal No. _____
Previous Submittal Date _____

City of Austin
Construction Inspection Division
Public Works Department
P.O. Box 1088
Austin, Texas 78767

Project Name: Austin Lakeside Drive

Attention: Owner's Representative

Enclosed are nine (9) copies of the following items for your review:

Item No.	Description	Submittal Type	Specification Section	Subcontractor/Supplier
1.	6" DI Pipe	Produce Data	510	ABC Company
2.	8" Resilient Seat Gate Valve	Product Data	511	DEF Company

Example

NOTE: Item 1 above contains a deviation from the Specifications as indicated on the item

Submitted by: _____

XYZ Company
101 Ranch Road 2974
Austin, Texas 78759

END

CONSTRUCTION EQUIPMENT EMISSIONS REDUCTION PLAN
Section 01353

1. GENERAL

1.1. RELATED DOCUMENTS

A. This Section applies to Drawings and all provisions of Contract.

1.2. SUMMARY – CONSTRUCTION EQUIPMENT EMISSIONS PLAN

A. The OWNER, as part of the Council Resolution No. 20100211-019, has decided to take steps to reduce emissions associated with construction process including Nitrogen Oxides (NOx), particulate matter and greenhouse gas. Construction activity is a source of large quantities of particulate matter and ozone forming Nitrogen Oxides that adversely affect the health of our community and the natural environment.

B. The CONTRACTOR shall employ practices and take actions that reduce emissions from NOx, particulate matter (black soot) and greenhouse gases resulting from activities associated with new construction and demolition Projects.

C. The CONTRACTOR shall maximize the use of equipment and vehicles with advanced emission controls in support of the City's goals, utilizing equipment that meets defined EPA emissions standards.

1.3. DEFINITIONS

A. "Construction Equipment" means equipment powered by an internal combustion engine and used for performing or otherwise advancing the Work on the Project, other than motor vehicles intended for use on public highways and registered pursuant to Section 502.002 of the Texas Transportation Code.

B. The list of applicable Construction Equipment includes, but is not limited to excavators, backhoes, loaders, bulldozers, graders, rock saws, generators, and other similar equipment.

C. "EPA" means the United States Environmental Protection Agency.

D. "Low-Use Equipment" means any piece of construction equipment which is used for less than ten (10) hours per week on site for a single construction contract.

E. "Greenhouse Gases" are emissions that absorb and emit radiation within the atmosphere. Greenhouse Gases can be one or a combination of, these gases: carbon dioxide, methane, nitrous oxide and three groups of fluorinated gases (sulfur hexafluoride, hydro fluorocarbons, and perfluorocarbons)

1.4. REQUIREMENTS – Not Used

1.5. SUBMITTALS

A. CONSTRUCTION EQUIPMENT EMISSIONS REDUCTION PLAN:

1. The CONTRACTOR agrees to prepare a draft Emissions Reduction Plan (referred to as PLAN) prior to start of construction. This PLAN shall include an inventory report

containing identifying data for each piece of equipment to be used on the worksite and shall include the following:

- Vehicle/Equipment: Make & Model Year
- Vehicle/Equipment: Engine Make & Model Year
- Vehicle/Equipment: Fuel Type
- Vehicle/Equipment: Expected gallons or hours used for project duration

a) The OWNER will provide Emissions Reduction Toolkit to help the CONTRACTOR in preparation of the PLAN and inventory.

2. The CONTRACTOR shall develop a list of strategies to be used in this Project in order to reduce emissions from NOx, particulate matter and greenhouse gas (CO_2 equivalent). Once prepared, the agreed upon strategies shall be incorporated into the PLAN. The PLAN will then be signed by the CONTRACTOR and made ready for implementation. Implementation progress will be reviewed once a month in regularly scheduled project progress meetings. The PLAN may be modified during construction if changes are made to the Project, but adjustments shall be approved by the OWNER prior to implementation.

3. This PLAN may be used by the Owner's Representative or Inspector to conduct site inspections and/or verify compliance with specification elements.

4. If additional equipment is brought on-site after construction begins, the Contractor shall provide this same inventory information to the Owner's Representative for the new equipment on or before the day it begins work on-site. All additional equipment shall conform to the PLAN.

5. Reports shall be provided for all equipment used on-site.

B. EQUIPMENT EMISSIONS CLOSEOUT DOCUMENTATION:

1. Submit the following prior to final payment:

a) Record of changes made to the original PLAN and reasons.

b) Provide a summary and documentation of strategies used and estimated reductions in fuel & emissions.

c) Provide documentation of amount and % of alternative fuel used.

2. PRODUCTS

Not used

3. EXECUTION

3.1. GENERAL

A. Implement the submitted PLAN. Provide personnel, documentation, equipment, signage, transportation, and other items as required to implement the PLAN during the entire duration of the Contract.

3.2. EQUIPMENT EMISSIONS PLAN IMPLEMENTATION

A. Plan Coordinator (Could be same as superintendent): Designate an on-site person responsible for instructing workers on the Owner's intent to reduce emissions, overseeing implementation and documenting results of the PLAN for the Project.

B. Plan Review: Review the PLAN in monthly progress meeting and include comments in the meeting notes.

C. Instruction: Provide on-site instructions to all subcontractors of emissions reduction methods to be used by all parties for the appropriate activities of the Project.

D. Discuss Owner's goals and requirements at the following meetings:

1. Pre-bid conference.
2. Pre-construction conference.
3. Progress meetings (monthly).

3.3 EQUIPMENT EMISSIONS REDUCTION TOOLKIT

A. Equipment Emissions Reduction Toolkit available at:

1. Website: (http://austintexas.gov/department/capital-improvement-program)
2. City of Austin Public Works Department, Project Management Division, One Texas Center, Suite 900
3. Construction Job Site Office (after contract award)

B. Equipment Emissions Reduction Toolkit consists of:

1. A list of Construction Equipment Emissions Reduction Strategies
2. EPA fuel savings calculator by idling reductions
3. Posting of Anti-idling signs
4. Memorandum of Agreement by Local Area Governments
5. Equipment Inventory Form

3.4 A LIST OF EQUIPMENT EMISSIONS REDUCTION STRATEGIES

The following are suggested emissions reduction strategies and references. As per the specification section 01353, 1.5 Submittals, the CONTRACTOR shall develop a list of strategies to be used in this Project at the start of construction.

C-1 Anti-Idling Strategies:

1. Implement and enforce anti-idling practices for all equipment and vehicles on and adjacent to the site and associated with the project. City will provide a construction site sign and stickers for vehicles and equipment. Add Hyperlink to COA Idling flyer location TBD

   Also refer to:

   https://www.nctcog.org/trans/quality/air/for-everyone/engine-off-north-texas

Another potential resource for the COA website on emission specifications:
https://www.tceq.texas.gov/airquality/mobilesource/vehicleidling.html

2. Limit all idling of project associated vehicles and equipment operations to five (5) minutes unless the idling is applicable to one or more of the following exceptions:

   a) Idling is being used for emergency response purposes;

   b) Idling is necessary for component of mechanical operation, maintenance, or diagnostic purposes; or

   c) Idling is for the health or safety of the equipment operator.

3. Provide education to all staff, vendors and subcontractors about emissions hazards and anti-idling practices and encourage use of EPA calculator for fuel savings.

4. To the extent possible, do not stop or idle haulage trucks directly under tree limbs and foliage overhanging the street along the haul route. Further avoid such damage from truck exhaust by means of exhaust diversion devices to redirect or diffuse exhaust from being directed in a concentrated manner to tree limbs and foliage.

5. Avoid vehicle loitering or queuing outside or inside the gates of the work area to minimize degradation of localized air quality.

   (http://austintexas.gov/airquality/)

C-2 Alternative Fuels:

6. Utilize **alternative fuels** including, Texas LED Compliant B20 (or higher) biodiesel, Compressed Natural Gas (CNG), propane and electric. (Refer to EPA Energy Policy Act for full list).

7. Avoid unnecessary fuel use by providing on-site fuelling for alternate fuels.

   (http://www.tceq.texas.gov/airquality/mobilesource/txled/cleandiesel.html)

   (http://www.eere.energy.gov/cleancities)

   (http://lonestarcfa.org)

C-3 Vehicle/Equipment Improvements:

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8. It is recommended that CONTRACTOR takes advantage of the **Texas Emission Reduction Plan (TERP)** grant incentives to upgrade (replace or repower) vehicles with retrofitted emission reduction technologies. (http://www.tceq.texas.gov/airquality/terp/index.html) or (www.terpgrants.com)

9. Utilize **battery powered and/or solar powered equipment** where available. This strategy can be combined with anti-idling strategies by using this technology for sign boards. (evtransportal.org/dieselengineidlereduction.pdf)

10. Consider using voluntary and mandatory sections of the City of Chicago Clean Diesel Program related to https://www.chicago.gov/city/en/progs/env/clean-diesel.htmlfile:///C:/Users/user/Documents/Downloads/O2011-1418.pdf

11. Consider an air quality training section administered by a governmental entity to help comply with an updated

COA Construction Equipment Emission Reduction Plan by using the California Air Resources Board (CARB) training section in the link below:

https://ww2.arb.ca.gov/our-work/topics/construction-earthmoving-equipment

C-4 Maintenance Program:

1. Establish a preventative **maintenance program** addressing issues including but not limited to, fuel use, air emissions, tire pressure, smoke from exhaust and noise.
2. Make all efforts to **prevent oil/fuel spillage** on to site surfaces.

C-5 Resource Management:

3. Utilize equipment companies that are located closest to the construction site.
4. Store equipment on site during construction use or arrange for closest overnight storage including **temporary use of the Right of Way** if possible.
5. To the extent possible, CONTRACTOR shall maximize use of **local and regional materials** to reduce transportation emissions.
6. CONTRACTOR shall maximize **salvage and reuse** of appropriate on-site materials. (http://www.usgbc.org/ShowFile.aspx?DocumentID=1095)
7. To the greatest extent possible, stage equipment and vehicles away from, and minimize operation near, sensitive receptors including, but not limited to, operable windows, fresh air intakes, hospitals, schools, licensed day care facilities, residences and areas where people congregate.

END

CONSTRUCTION PHOTOGRAPHY & VIDEOS
Section 01380

1. GENERAL

CONTRACTOR shall be responsible for the production of pre-construction, construction progress and post-construction photographs as provided herein. Owner's Representative may also designate additional subjects for photographs in addition to the general guidelines identified below.

2. QUALITY

All photographs must be produced by a competent photographer and shall be digital (6 Mega-Pixel) date-stamped color photography of commercial quality. All CONTRACTOR-generated photographs must be stored in a .jpeg file format and shall be submitted on CD format or other format acceptable to the City. Each CD shall be marked with the name and Work Assignment number for the project, name of CONTRACTOR, description and location of view and identity of photographer.

All construction progress photographs shall be submitted with the CONTRACTOR'S progress payment. All post-construction photographs shall be submitted at the completion of each Work Assignment, or with the CONTRACTOR'S progress payment following completion of the Work Assignment.

3. VIEWS AND QUANTITIES

3.1 PRE-CONSTRUCTION PHOTOGRAPHS

Pre-construction photographs must be taken at the Work site to be able to carefully document the pre-construction conditions of the Work. Each photograph location shall be taken from a minimum of two (2) views (one forward station view and one backward station view along the street) within the limits of construction. Particular attention must be devoted to pre-existing damage to structures; landscape features, streets, curbs, sidewalks, driveways, signs, mailboxes, retaining walls, MSE walls, etc. shall be documented. An identifier such as houses or businesses address/ signs, property numbers, mail boxes, landscaping, etc. shall be included in each view for ease of later identification. At a minimum, Pre-construction photographs must be taken of the following views:

- The entire street ROW
- The entire easement width and length (both permanent and temporary)
- All curb lines (both sides of street) – all pre-existing curb damage not called for replacement within the Work and shall include major cracks
- All driveways, steps, and curbs and curb ramps (both sides of street)
- Fence and gate conditions
- Trees, ornamental shrubs, plantings/planter boxes and evidence of irrigation features
- Other privately or publically owned features or facilities that might be disturbed by the construction
- Prominent utility features, such as: guy wires, poles, signs, valves, fire hydrants, meters, pull boxes, etc.
- Streams and stream banks within the limits of construction

- Other significant or prominent features in order to protect the OWNER and CONTRACTOR following construction (e.g. close up photographs of pre-existing broken curbs, cracked/failed pavement, damaged adjacent retaining walls, etc.)
- Views of structures, both inside and adjacent to the ROW/easement in areas where CONTRACTOR will be working within five (5) feet of said structure
- Other views as requested by the OWNER

3.2 CONSTRUCTION PROGRESS PHOTOGRAPHS

Construction Progress photos must be taken daily for each Work Assignment to show the progress of the work. Construction photographs of the same views taken during pre-construction photography must be taken during the progress of the Work and shall be submitted with the Contractor's progress payment application.

Progress photos must be taken to depict the work accomplished with each Work Assignment that includes all

- Significant construction activities.

All photos shall be submitted monthly with the CONTRACTOR'S progress payment application.

3.4 POST CONSTRUCTION PHOTOGRAPHS

Post-construction photographs must be taken of the same views taken during pre-construction photography to fully document the completed project. Post-construction photographs must be taken after cleanup and site restoration.

End

PART 1 - GENERAL

1.1 Related Documents:

Drawings and general provisions of Contract, including General Conditions, Section 00700,and Supplemental General Conditions, Section 00810, and Division 1 requirements.

PART 2 - PRODUCTS (NOT USED)

PART 3 – EXECUTION

3.1 Office at the Work Site (Job Shack)

NOT USED.

3.2 Water for Construction

All water required for and in connection with the Work to be performed shall be furnished by and at the expense of the CONTRACTOR through meters installed on hydrants, except for water used in the "disinfection of potable water lines" process per Specification 510.3(29). All water used in the disinfection process shall not be metered, but rather shall be measured by calculation. Such water use does not require a meter, but a double-check valve assembly is required when connecting to a fire hydrant or a City main. CONTRACTOR shall submit a written plan for the disinfection process for review and approval by OWNER prior to commencing Work. The written plan shall include the CONTRACTOR's plan for final flushing and discharge of chlorinated water, and shall specify the quantities of potable water that will be required for the procedure and dosage plan proposed by the CONTRACTOR. Water used in the disinfection process shall be supplied by the OWNER through hydrants or connection through a City main at no charge to the CONTRACTOR for the initial disinfection procedure up to the quantities agreed to in the written plan for the disinfection process. Should the initial disinfection procedure fail to produce acceptable bacteriological sample test results, the cost of water at standard rates used for subsequent disinfection procedures shall be the responsibility of the CONTRACTOR with quantities determined through calculations. For all water required for and in connection with the Work to be performed other than for the disinfection process, water and meters will be available from OWNER at standard rates. All costs for obtaining a water meter shall be the responsibility of the CONTRACTOR. The CONTRACTOR shall contact the Austin Water Utility and arrange to pick up the meter. CONTRACTOR shall install a double-check valve assembly on the fire hydrant between the hydrant and the meter, to prevent backflow in the event of pressure failure. CONTRACTOR shall supply all necessary tools, hose and pipe, and shall make necessary arrangements for securing and transporting such water and shall take water in such a manner, and at such times, that will not produce a harmful drain or decrease of pressure in the OWNER's water system. It shall be the CONTRACTOR's responsibility to make arrangements with the Austin Water Utility for the metering and reporting of the amount of water used. Water shall not be used in a wasteful manner. Standard hydrant wrenches shall be used for opening and closing of fire hydrants. In no case shall pipe wrenches be used for this purpose. Temporary lines shall be removed when no longer required.

"If applicable, after the installation of the City of Austin's water meter(s) for the Project, the CONTRACTOR has the option to utilize the water available from this service at the

CONTRACTOR's expense. An adjustment to the Contract amount will be made by Change Order at the end of the Project for the costs incurred by the City of Austin for the water."

3.3 Telephone Service

NOT USED.

3.4 Sanitary Facilities

CONTRACTOR shall furnish temporary sanitary facilities at the site, as provided herein, for the needs of all construction workers and others performing Work or furnishing services on the Project.

Sanitary facilities shall be of reasonable capacity, properly maintained throughout the construction period, and obscured from public view to the greatest practical extent. If toilets of the chemically treated type are used, at least one toilet shall be furnished for each 20 employees. CONTRACTOR shall enforce the use of such sanitary facilities by all personnel at the site.

3.5 Protection of Public and Private Property

CONTRACTOR shall protect, shore, brace, support and maintain all underground pipes, conduits, drains, and other underground construction uncovered or otherwise affected by the CONTRACTOR's operations. All pavement, surfacing, driveways, curbs, walks, buildings, utility poles, guy wires, fences, and other surface structures affected by construction operations, together with all sod and shrubs in yards, parkways, and medians, shall be restored to their original condition, whether within or outside the easement/right-of-way. All replacements shall be made with new materials.

CONTRACTOR shall be responsible for all damage to streets, roads, curbs, sidewalks, highways, shoulders, ditches, embankments, culverts, bridges, or other public or private property, which may be caused by transporting equipment, materials, or men to or from the Work, whether by him or his Subcontractors. CONTRACTOR shall make satisfactory and acceptable arrangements with the owner of, or the agency having jurisdiction over, the damaged property concerning its repair or replacement or payment of costs incurred in connection with the damage.

All fire hydrants and water control valves shall be kept free from obstruction and available for use at all times.

3.6 Tree and Plant Protection

All trees and other vegetation which must be removed to perform the Work shall be removed and disposed of by the CONTRACTOR; however, no trees or cultured plants shall be unnecessarily removed unless their removal is indicated on the Drawings. All trees and plants not removed shall be protected against injury from construction operations.

No tree shall be removed outside of permanent easement(s), except where authorized by the E/A. Whenever practicable, CONTRACTOR shall tunnel beneath trees in yards and parking lots when on or near the line of trenching operations. Hand excavations shall be employed as necessary to prevent injury to trees. Care shall be taken with exposed roots, unearthed during construction, so that roots do not dehydrate causing tree damage.

Trees considered by the E/A to have any significant effect on construction operations are indicated on the Drawings and those which are to be preserved are so indicated.

CONTRACTOR shall take extra measures to protect trees designated to be preserved, using methods shown on the Drawings and as specified in Standard Specification Item No. 610S “Preservation of Trees and other Vegetation".

3.7 Security

CONTRACTOR shall be responsible for protection of the site, and all Work, materials, equipment, and existing facilities hereon, against vandals and other unauthorized persons.

No claim shall be made against OWNER by reason of any act of an employee or trespasser, and CONTRACTOR shall make good all damage to the OWNER's property resulting from CONTRACTOR's failure to provide security measures as specified.

Security measures shall be at least equal to those usually provided by OWNER to protect existing facilities during normal operations, and shall also include such additional security fencing, barricades, lighting, and other measures as required to protect the site. When required, the CONTRACTOR shall provide a security plan to the OWNER for review as to appropriateness of the security measures proposed.

3.8 Access Roads

CONTRACTOR shall establish and maintain temporary access roads to various parts of the site as required to complete the Project. Such roads shall be available for the use of all others performing Work or furnishing services in connection with the Project.

3.9 Parking

CONTRACTOR shall provide and maintain suitable parking areas for the use of all construction workers and others performing Work or furnishing services in connection with the Project, as required, to avoid any need for parking personal vehicles where they may interfere with public traffic, the OWNER's operations, or construction activities.

3.10 Dust Control

Dust Control during construction of this Project shall conform to Standard Specifications Item No. 220S, “Sprinkling for Dust Control". No direct payment will be made for dust control. Dust Control shall be considered subsidiary work relating to various Bid items of the Contract.

3.11 Temporary Drainage Provisions

CONTRACTOR shall be responsible for providing for the drainage of stormwater and such water as may be applied or discharged on the site in performance of the Work. CONTRACTOR shall obtain E/A approval for temporary drainage facilities which will handle, carry through, or divert around his Work all drainage flow, including storm flow and flows created by construction activity, to prevent silting of waterways or flooding damage to the property and adjacent property.

3.12 Erosion Control

CONTRACTOR shall prevent erosion of soil on the site and adjacent property resulting from his construction activities. Effective measures shall be initiated prior to the commencement

of clearing, grading, excavation, or other operations which will disturb the natural protection.

CONTRACTOR shall use controls found in "Environmental Criteria Manual" or developed from successful techniques elsewhere as approved by E/A.

3.13 Pollution Control

CONTRACTOR shall prevent the pollution of drains and watercourses by sanitary wastes, sediment, debris and the substances resulting from construction activities. No sanitary wastes will be permitted to enter any drain or watercourse. No sediment, debris or other substance will be permitted to enter sanitary sewers and reasonable measures shall be taken by CONTRACTOR to prevent such materials from entering any drain or watercourse.

CONTRACTOR shall observe the rules and regulations of the State of Texas and agencies of the U.S. Government prohibiting the pollution of any lake, stream, river, or wetland by the dumping of any refuse, rubbish, dredge material, or debris therein.

CONTRACTOR is specifically cautioned that disposal of materials into any water of the State must conform to the requirements of the Texas Commission on Environmental Quality (TCEQ), and any applicable permit from the U.S. Army Corps of Engineers.

3.14 Noise Control

CONTRACTOR shall comply with the City of Austin's Noise Ordinance. CONTRACTOR shall take reasonable measures to avoid unnecessary noise. Such measures shall be appropriate for the normal ambient sound level in the area during working hours. All construction machinery and vehicles shall be equipped with practical sound-muffling devices, and operated in a manner to cause the least noise consistent with efficient performance of the Work.

3.15 CIP Sign

A CIP Sign is not required.

3.16 Fences

All existing fences affected by the Work shall be maintained by the CONTRACTOR until completion of the Work. Fences which interfere with construction operations shall not be relocated or dismantled until written permission is obtained from the owner of the fence, and the period the fence may be left relocated or dismantled has been agreed upon. Where fences must be maintained across any construction easement, adequate gates shall be installed. Gates shall be kept closed and locked at all times when not in use.

Upon completion of the Work across any tract of land, CONTRACTOR shall restore all fences to preconstruction, or to a better, condition and to their preconstruction location.

3.17 Mail Boxes

CONTRACTOR shall remove, reset temporarily, and relocate permanently all mail boxes that are within construction site limits conforming to requirements of United States Postal Service. Mailboxes shall not be laid on the ground, but shall be temporarily reset the same day as removed. Payment for removing and resetting of mail boxes will not be paid for directly, but will be considered subsidiary to the various Bid items. Any damage to mail boxes or posts shall be the responsibility of the CONTRACTOR.

3.18 Emergency Facilities

Free access shall be maintained at all times to fire lanes and emergency and utility control facilities such as fire hydrants, fire alarm boxes, police call boxes, and utility valves, manholes, junction boxes, etc. In the event that it is necessary to make one of these facilities temporarily inaccessible, CONTRACTOR shall obtain approval of such action and schedule of Work from the OWNER. CONTRACTOR shall also provide at least 24 hours prior notice to the Fire Department, Police Department, and City Department governing the affected utility. The same Department(s) shall be promptly notified by the CONTRACTOR when such facilities are placed back in unobstructed service.

3.19 Notification of Owners

Unless otherwise indicated, the OWNER will notify property owners abutting the right-of-way of impending construction. The CONTRACTOR shall exercise diplomacy and tact with individual property owners.

3.20 Maintenance of Traffic

CONTRACTOR shall conduct his Work to interfere as little as possible with public travel, whether vehicular or pedestrian. Whenever it is necessary to cross, obstruct, or close roads, driveways, and walks whether public or private, the CONTRACTOR shall provide and maintain suitable safe bridges, detours or other temporary measures to accommodate public and private travel, and shall provide reasonable notice to owners of private drives before interfering with them. Such maintenance of traffic will not be required when CONTRACTOR has obtained written permission from the owner and the tenant of the private property, or from the authority having jurisdiction over public property involved, to obstruct traffic at the designated point. A copy of the initial written permission shall be provided to the Owner's Representative.

Safety and conveyance of traffic shall be regarded as prime importance. Unless otherwise directed, all portions of streets associated with this Project shall be kept open and provided a dust free, smooth and comfortable ride to traffic. It shall be the responsibility of the CONTRACTOR to ensure that two-way traffic may safely bypass the construction site and that access is provided to abutting private property. In making open cut street crossings, the CONTRACTOR shall not block more than one-half of the street at one time without approval of the OWNER. Whenever possible, CONTRACTOR shall widen the shoulder on the opposite side to facilitate traffic control. Temporary surfacing shall be provided as necessary on shoulders.

Prior to beginning Work, CONTRACTOR shall designate, in writing, a competent person who will be responsible and available on the Project site, or in the immediate area, to ensure compliance with the traffic control plan. CONTRACTOR shall provide documentation to demonstrate the sufficient training in Traffic Control for his competent person. Owner will designate a qualified person to observe implementation and who will have authority to assure compliance with the traffic control plan.

The CONTRACTOR shall perform the necessary cleanup and finishing immediately after all or a portion of the Work is completed. When the Work includes paving operations, the entire site shall be kept clean to facilitate placement of required traffic control devices. Temporary and permanent striping lay-out shall be approved by the Transportation Department prior to placement, when included in the Work.

1. Detours

Where indicated on the traffic control plan CONTRACTOR shall erect and maintain detours around construction activities. Should CONTRACTOR desire to propose a detour, not already included in the traffic control plan, it shall be his responsibility to prepare a revised traffic control plan showing the detour, and obtain approval of the revised traffic control plan from the Transportation Department, prior to implementation of the detour. The Transportation Department has final authority as to the acceptability of any proposed revisions to the traffic control plan. The CONTRACTOR shall bear all costs for revising the traffic control plan and for maintaining the proposed detour.

2. Barricades and lights

CONTRACTOR shall place and maintain in good condition, standard barricades at each end of the Project and at other locations where traffic is rerouted or blocked from using regular traffic lanes. Barricades and warning signs shall be in accordance with the Texas Manual on Uniform Traffic Control Devices (MUTCD) and City of Austin Standard Specification Item No. 803S, "Barricades, Signs and Traffic Handling". Signs, barricades, and warning devices informing the public of construction features will be placed and maintained by the CONTRACTOR, who shall be solely responsible for their maintenance. The decision to use

particular device at a particular location as indicated in the traffic control plan or as determined by the CONTRACTOR, shall be the sole responsibility of the CONTRACTOR.

All open trenches and other excavations shall have suitable barricades, signs, and lights to provide adequate protection to the public. Obstructions, such as material piles and equipment shall be provided with similar warning signs and lights.

All barricades and obstructions shall be illuminated with warning lights from sunset to sunrise. Material storage and conduct of the Work on, or along side, public streets and highways shall cause a minimum obstruction and inconvenience of the traveling public.

3.21 Required Job Site Postings and Notices

CONTRACTOR shall post the following postings and notices in English and Spanish at one or more conspicuous locations on the job site. In the case of Projects with multiple sites, the notices and postings must be displayed at each site. In the case of Projects that do not have a job shack or other temporary facility on the site, CONTRACTOR shall post all notices on a temporary bulletin board. Other special conditions are noted below.

Required for all Projects	
Poster	Available at:
Baseline Schedule for Project identifying when all subcontractors will be used	N/A (as required under Section 00700, paragraph 2.4.2.1.)
Wage Rates as required under Section 00830.	Section 00830BC and/or Section 008300HH
City of Austin Wage Contact posters	Provided at Pre-Construction meeting (English and Spanish)
City of Austin Equal Employment Opportunity posters	http://austintexas.gov/department/wage-compliance (English and Spanish)

Texas Commission on Environmental Quality "Construction Site Notice" form, if applicable, as required or the required TPDES information	http://www.tceq.state.tx.us/assets/public/permitting/waterquality/attachments/stormwater/txr152d2.pdf (Option 1 – as required under Section 00810, 6.7.4.2 N/A (Option 2 – as required under Section 00810, 2.6.7.4.3)
OSHA poster "Job Safety and Health: It's the Law"	http://www.osha.gov/Publications/osha3165.pdf (English) http://www.osha.gov/Publications/osha3167.pdf (Spanish)
City of Austin Rest Break Ordinance Signs	http://austintexas.gov/department/wage-compliance (English and Spanish) As required to be posted in English and Spanish under Ordinance No. 20100729-047
Texas Payday Law Poster	http://www.twc.state.tx.us/ui/lablaw/ll10.pdf (English) http://www.twc.state.tx.us/ui/lablaw/ll10s.pdf (Spanish)
Texas Workers Compensation notice that the employer does or does not carry Workers Compensation insurance	Does not carry Workers Compensation Insurance: http://www.tdi.state.tx.us/forms/dwc/notice5.pdf (English) http://www.tdi.state.tx.us/forms/dwc/notice5s.pdf (Spanish) Does carry Workers Compensation Insurance: http://www.tdi.state.tx.us/forms/dwc/notice6.pdf (English) http://www.tdi.state.tx.us/forms/dwc/notice6s.pdf (Spanish)
TWC Employer's Notification of the Ombudsman Program to Employees	http://www.oiec.state.tx.us/documents/Employer_Notice_of_O.pdf (both versions)
DOL – The Uniformed Services Employment and Reemployment Rights Act (USERRA)	http://www.dol.gov/vets/programs/userra/USERRA_Private.pdf
EEOC Equal Employment Act and the Americans with Disabilities Act (ADA)	http://www.dol.gov/ofccp/regs/compliance/posters/pdf/eeopost.pdf (English) http://www.dol.gov/ofccp/regs/compliance/posters/pdf/eeosp.pdf (Spanish)
Fair Labor Standards Act (FLSA) Minimum Wage Poster	http://www.dol.gov/whd/regs/compliance/posters/flsa.htm (English) http://www.dol.gov/whd/regs/compliance/posters/flsaspan.htm (Spanish)
If applicable: Employee Rights for Workers with Disabilities/Special Minimum Wage Poster – Employment Standards	http://www.dol.gov/whd/regs/compliance/posters/disabc.pdf http://www.dol.gov/whd/regs/compliance/posters/disabspanc3p.pdf
"Your Rights Under the Family and Medical Leave Act (FLMA)"	http://www.dol.gov/whd/regs/compliance/posters/fmlaen.pdf (English) http://www.dol.gov/whd/regs/compliance/posters/fmlasp.pdf (Spanish)
Title VI Rights Poster	http://austintexas.gov/department/wage-compliance
Additional Postings Required for Federally Funded Projects	
"Employee Rights Under the Davis-Bacon Act"	http://www.dol.gov/whd/regs/compliance/posters/fedprojc.pdf (English) http://www.dol.gov/whd/regs/compliance/posters/davispan.pdf (Spanish)
Applies to USDOT/FHWA funded projects: "Notice of False	http://www.mdt.mt.gov/publications/docs/forms/dbe/eeo_board/false_statements.pdf

Statements Concerning Highway Projects”	(as required in Section 00810A Standard Federal-Aid Assurances)
Applies to USDOT/FHWA funded projects; “Contractors EEO Policy”	N/A (as required in Section 00810A Standard Federal-Aid Assurances)

END

CONSTRUCTION AND DEMOLITION WASTE MANAGEMENT

Section 01505

Non-Building Projects – Water / Wastewater and Street Reconstruction

PART 1 – GENERAL

1.1 RELATED DOCUMENTS

1. Division 01 Section 01200 "Project Meetings"
2. Division 01 Section 01500 “Temporary Facilities”
3. Division 00 Section "Hazardous Waste Management”
4. Division 01 Section 01700 “Contract Closeout”
5. Division 02 Section “Demolition” & “Clearing and Grubbing”.
6. Division 01 Section 01352 “Sustainable Construction Requirements”.

1.2 SUMMARY

A. The Owner has established that the Project shall minimize the creation of construction and demolition waste on the Project site and shall recycle and/or salvage non-hazardous construction, demolition, and land clearing debris to divert waste from Landfills. See 1.5 Waste Management Goals.

1. All profits resulting from salvaging and recycling shall go to the Contractor.
2. Where there is little cost difference between recycling/salvaging and land-filling of items, the Contractor is directed to recycle/salvage.

B. Hazardous materials are an exception to this Section. Comply with applicable requirements of Local, State and Federal regulations.

C. This Section includes administrative and procedural requirements for recycling, salvaging and disposing of non-hazardous demolition and construction waste

1.3 REFERENCES

A. The standards listed below form a part of this Section to extent referenced. Standards are referred to in the text by basic reference only.

1. Sustainable Building Sourcebook – Austin Energy Green Building:www.austinenergy.com/Energy%20Efficiency/Programs/Green%20Building/Sourcebook/constructionWasteManagement.htm

2. Resource Exchange Network for Eliminating Waste (RENEW), TCEQ (MC-112), Biannual catalog lists materials available and wanted; serves Texas and surrounding states; lists are posted on the Internet: http://www.tceq.state.tx.us/assistance/P2Recycle/renew/renew.html

3. Recycle Texas Online, A service of the Texas Commission on Environmental Quality. Contains information on about 1000 businesses and local governments handling materials from Texas. Organizations' information is self-reported and listings are free of charge. www.tceq.state.tx.us/assistance/P2Recycle/rtol/rtol.html

1.4 DEFINITIONS

A. Chemical Waste: Includes petroleum products, bituminous materials, salts, acids, alkalis, herbicides, pesticides, organic chemicals, and inorganic wastes.

B. Clean: Untreated, unpainted, not contaminated with oils, solvents, caulk, or other materials.

C. Disposal: Acceptance of solid wastes at legally permitted and operating facility for the purposes of land-filling.

D. Diversion: Avoidance of demolition and construction waste sent for disposal to landfill or incineration. Diversion does not include using materials for landfill, alternate daily cover on landfills, or materials used as fuel in waste-to-energy processes.

E. Hazardous Waste: Byproducts of society that can pose a substantial or potential hazard to human health or the environment when improperly managed, and possessing at least 1 of 4 of the following characteristics, or appearing on a special Environmental Protection Agency (EPA) list.

1. Ignitability.

2. Corrosivity.

3. Reactivity.

4. Toxicity.

F. Landfill: Authorized land waste disposal site that is located to minimize waste pollution from runoff and leaching.

G. Recycling: The process of sorting, cleansing, treating, and reconstituting solid waste and other discarded materials for the purpose of using the altered form. Recycling does not include burning, incinerating, or thermally destroying waste.

H. Return: To give back reusable items or unused products to vendors for credit.

I. Reuse: A strategy to return materials to active use in the same or a related capacity.

J. Salvage: To remove a waste material from the Project site to another site for resale or reuse by others.

K. Source Separation: The act of keeping different types of waste materials separate beginning from the first time they become a waste.

L. Toxic: Poisonous to living beings either immediately or after a long period of exposure.

M. Trash: Any product or material unable to be reused, returned, recycled, or salvaged.

N. Waste: Extra material or material that has reached the end of its useful life in its intended use. Waste includes all materials removed from the Project site to be land-filled, recycled, or salvaged for reuse. Pallets, containers, packaging and packing materials in which construction products are delivered to the Project site are considered waste materials.

1.5 WASTE MANAGEMENT GOALS

A. The Owner has established that as much as is economically feasible of the “waste” materials produced as a result of the Work, shall be employed, salvaged, reused, or recycled in order to minimize the impact of construction and demolition waste on landfills and reducing disposal costs.

B. Contractor shall employ and encourage practices that ensure the generation of as little waste as possible due to error, poor planning, breakage, mishandling, contamination, or other factors.

C. Contractor is responsible for knowing and complying with regulatory requirements, including but not limited to Federal, State and local, pertaining to legal disposal of all construction waste materials.

D. Contractor shall recycle and divert materials for secondary uses whenever economically feasible.

E. Acceptable methods of diversion include:
Recycling, reuse and salvage
Donation to nonprofit organizations
Removal from jobsite by staff or subcontractors for use (not disposal)
Return to supplier
Sale to organizations or individuals

F. The Contractor shall develop a Construction and Demolition Waste Management Plan of non-hazardous construction and demolition waste. The plan shall identify the materials to be diverted from disposal and define the materials to be separated on-site or off-site. Calculations can be done by weight or volume, but must be consistent throughout.

1.6 SUBMITTALS

A. ***Waste Management Plan:*** A Project-specific plan for the collection, transportation, and disposal of the waste generated at the construction site, shall be submitted for approval within 14 calendar days after notice to proceed, or prior to any waste removal, whichever occurs first. The approved Plan shall be distributed to all subcontractors and the owner and will not relieve the Contractor's responsibility for compliance with applicable environmental regulations.

An example template is included as "Appendix A" to this section.

1. The Waste Management Plan shall include the following:

a. Identify each type of waste material produced as a result of the Work on the Project Site.

b. Identify each type and quantity of demolished and waste material intended to be recycled, salvaged or reused.

c. Identify material separation requirements.

e. Identify location of temporary on-Site storage for recycled and reused materials.

f. Identify final destination means of transportation for each recycled and reused material.

h. Identify the name/phone number of the Contractor's on-site coordinator of the Waste Management Plan.

i. Indicate permit or license and the location of the municipal solid waste landfills and other disposal area(s) to be used.

j. List of materials that cannot be recycled or reused.

B. ***Construction Waste Management Closeout Documentation:*** Submit the following upon the completion of The Work and prior to final payment:

a. A Summary of Solid Waste Disposal and Diversion (refer example template "Appendix B") prepared and maintained through Project duration, demonstrating that 100% of all non-hazardous construction wastes were recycled, salvaged or disposed of properly and includes as a minimum the following information:

1. Dates
2. Materials Description and Quantity
3. Indicate whether recycled, salvaged, reused of sent to landfill for disposal.
4. Destination or Name and location of accepting facility.

b. Copies of all receipts, manifests, weight tickets, and other documentation that identify all materials recycled, salvaged, land-filled or incinerated.

PART 2 - PRODUCTS

Not used

PART 3 – EXECUTION

3.1 GENERAL

A. Implement the Waste Management Plan as approved by the City of Austin Project Manager. Provide handling, containers, storage, signage, transportation, and other items as required to implement Waste Management Plan during the entire duration of the Contract.

B. Satisfy the requirements outlined in Subsection 1.5, Waste Management Goals.

3.2 WASTE MANAGEMENT PLAN IMPLEMENTATION

A. Plan Coordinator: Designate an on-site party (or parties) responsible for instructing workers, overseeing implementation and documenting results of the Waste Management Plan for the Project.

B. Plan Distribution: Provide copies of the Waste Management Plan to the Contractor's superintendent, each Subcontractor, the Owner, and the Engineer.

C. Meetings: Include Construction Waste Management in progress meetings to maintain the Plan for achieving the owners waste management goals:

D. Carefully order materials to avoid over supply.

E. Protect materials from contamination during handling, storage and transport to meet the requirements of the accepting facilities.

F. Assign and label a specific area to facilitate separation of materials for potential recycling, salvage, reuse, return and disposal. This area shall be kept neat and clean and clearly marked in order to avoid contamination of materials.

3.3 RECYCLING REQUIREMENTS

A. Materials: In general the contractor is encouraged to recycle the following types of construction waste materials generated during the course of this project, that are not salvaged or reused:

a. Asphalt concrete pavement.

b. Concrete materials.

c. Metals, including the following.

i. Banding straps.
ii. Reinforcing steel.
iii. Iron.
iv. Steel pipe.
v. Galvanized steel pipe.

d. Clean dimensional lumber.

e. Wood crates and pallets.

f. Glass and glass containers.

g. Plastics.

h. Electrical wiring.

i. Cardboard, paper, and packaging.

j. Beverage containers.

B. Methods: The following recycling methods, or a combination of, may be used.

1. On-site separation: Each material to be recycled shall be separated at the Project site and delivered to the recycling markets or directly from the Project site.

   a. If on-site separation method is used, designate a specific area or areas to facilitate separation of materials for potential reuse, salvage, recycling, and return.

   b. Maintain recycling and waste bin areas neat and clean and clearly marked, both in Spanish and in English, in order to avoid co-mingling of materials.

   c. Protect materials from contamination.

2. Off-site separation: Materials to be recycled are delivered unsorted from the Project site to a materials recovery facility or transfer station where recyclable materials are separated from other waste.

   a. Contractor shall verify that the entity responsible for the off-site separation has a market for all materials required to be recycled from the Project site.

   b. The same Submittals procedures shall apply.

   c. Protect materials from contamination.

3.4 REUSE

A. Contractor is encouraged to reuse as many demolished and waste materials as possible.

B. Reuse of waste materials includes the following:

a. Salvaging materials scheduled for disposal.

b. Off-Site storage of waste materials for future reuse by Contractor on other projects.

c. Returning unused and reusable materials, packaging and pallets, to vendor.

e. Assemble designated reuse items in a single location safe from damage, for review and approval by the owner's representative.

3.5 SALVAGE

A. Salvage Guidelines:

1. The contractor is encouraged to salvage as many items as deemed economically possible, considering reduction of land filling fees and possible use by others.

2. Assemble potentially salvageable items in one area and donate or sell to the public after review by the City of Austin Project Manager.

3. All proceeds from the sale of salvaged items shall go to the contractor.

Appendix A. Sample Construction Waste Management Plan

Construction Waste Management Plan

Project:
Contractor:
Date:
Contact:
Phone:
Prepared by:

Diversion Goal: Recycle, reuse and/or salvage as much land-clearing and construction waste as is economically feasible.

I. Coordination and Training

a. Name of Contractor's representative responsible for CWM implementation & coordination.

b. Describe method(s) of waste recycling management – on-site and/or off-site.

c. Describe how Contractor's staff and subcontractors will be informed regarding proper recycling and separation procedures

d. Describe and/or show on an attached site map where the temporary waste material storage area(s) will be located, and how will contamination of separated waste materials will be prevented?

II. Waste Minimization

a. What waste minimization techniques will be employed during the construction phase?

_____
_____
_____
_____

b. Which employees and / or subcontractors will be involved with each technique?

_____
_____
_____
_____

III. Construction Waste Analysis (including site / land-clearing materials, as applicable)

a. ***Diverted Materials***: For each material anticipated to be reused or recycled (diverted from the landfill), provide information to complete the table below. (Note: Whenever possible, attempt to use or donate construction waste materials rather than recycling.)

Material or Item	Storage Method (roll-off, bin, area, on pallet, etc.)	Quantity estimate (no., linear ft., square ft., etc.)	Proposed Recipient

Add rows (or paper pages) as required

b. ***Landfill***: For construction phase trash and materials / items that will not be diverted, complete the following table:

Quantity estimate (weight or volume)	Number and size of roll offs anticipated	Proposed landfill site

Appendix B. Summary of Solid Waste Disposal and Diversion

Project name _____ Project Number _____

Contractor Name _____ License Number_____

Contractor Address_____

Solid Waste Material	**Recycled, Reused, salvaged or disposed**	**Date Material Disposed** or diverted	**Amount Disposed/ Diverted** (Ton or cubic yd.)	**Municipal Solid Waste Facility** (Name, address, Phone)	**Recycling/Reuse Facility** Name Address Phone	**Comment** (If disposed state why not diverted)
Vegetation						
Soil						
Trench spoils						
Rock						
Asphalt						
Concrete						
Metal						
Wood						
Debris						
Glass						
Trash						
Other						

Signature _____ Date _____

Page / of / total pages

PART 1 - GENERAL

1.1 Related Documents:

Drawings and general provisions of Contract, including General Conditions, Section 00700, and Supplemental General Conditions, Section 00810, and Division 1 requirements.

PART 2 - PRODUCTS (NOT USED)

PART 3 - EXECUTION

3.1 General

CONTRACTOR shall maintain reasonable local vehicular and pedestrian dust free traffic, including use of driveways, to proceed safely with minimum inconvenience, except during actual construction operations. CONTRACTOR provided flaggers shall assist traffic when a street is operating under a single lane. Two-way traffic shall be maintained at all other times unless otherwise authorized by Owner.

CONTRACTOR shall provide, at the work zone location during temporary traffic control installation, a designated Competent Traffic Control Person to ensure compliance with the traffic control plans and the provisions of the Contract. Training Certificates for the designated Competent Person shall be provided with submittals at the Precon. Training certificates for competent persons shall be good for four (4) years from the date of training. After such time the competent person must show that additional training or re-certification has been completed to maintain competent person status.

CONTRACTOR shall maintain a smooth and safe ride for traffic by placing steel plates with Asphaltic concrete berms, temporary fill or bridging and temporary surfacing with cold or hot-mix Asphaltic concrete paving in accordance with applicable City Standards.

Sidewalks shall not be obstructed, except by special permission of Owner or E/A. Access to private dwelling and to commercial establishments shall be provided at all times.

CONTRACTOR shall plan and execute his operations in a manner that will cause a minimum interference with traffic. The CONTRACTOR shall place and maintain in good condition, standard barricades at each end of the Project and at other locations where traffic is rerouted or blocked from using regular traffic lanes. Barricades and warning signs shall be in accordance with Texas Manual on Uniform Traffic Control Devices (MUTCD) and the City of Austin Transportation Criteria Manual.

Signs, barricades and warning devices informing public of construction features shall be placed and maintained by the CONTRACTOR who shall be solely responsible for their maintenance.

Unless otherwise specified elsewhere in Division 1, neither explosives nor blasting shall be permitted on this Project.

3.2 Traffic Control

3.2.1 It shall be the sole responsibility of the CONTRACTOR to furnish, install, maintain and remove barricades, detour signs, warning signs, lights and all regulatory traffic control devices of the size and type specified, at locations indicated, or as directed or approved by the OWNER in accordance with the Texas Manual on Uniform Traffic Control Devices, (MUTCD), Part VI, Traffic Control for Street and Highway Construction and Maintenance Operations and the City of Austin Transportation

Criteria Manual. Upon phase completion, the Contractor shall immediately revise the temporary traffic devices to reflect the next phase or if the project is complete remove them from the public right of way.

3.2.2 Throughout the life of the Contract, all existing roads and Traffic Control devices included in the Work shall be maintained by the CONTRACTOR to a condition, in the opinion of the OWNER, which is equal to or better than that which existed when Work commenced. Maintenance of existing roads and devices shall take priority over all other Work items and shall be subject to a seven-day-a-week, 24-hours-per-day time frame. The CONTRACTOR shall provide a smooth and safe riding surface for all vehicles along the route of this Project. This could include, but not be limited to, small cars, motorcycles, mopeds and bicycles. If the condition of the street surface deteriorates, for any reason, CONTRACTOR shall take necessary steps to insure immediate restoration.

3.2.3 During construction of streets, drainage, and utility projects, if conditions of existing street surface require maintenance to upgrade from their state when the Work began, a separate pay item may be included in Bid. Otherwise, maintenance work will not be paid for directly but will be considered subsidiary to various Bid items of this Contract.

3.2.4 In the event that CONTRACTOR fails, in opinion of OWNER, to maintain a smooth surface for public comfort, fails to provide ingress and egress to private property, and/or does not provide and maintain proper traffic control devices, OWNER may provide these services and deduct any cost thereof, including overtime and administrative expenses, from all estimates thereafter due the CONTRACTOR. Such action by the OWNER shall not relieve the CONTRACTOR of his liability to protect the public at construction site. Owner may also assess an investigation fee, as established by separate Fee Ordinance, for violations resulting in more than one deficiency report issued to Contractor.

3.2.5 A permit must be obtained from Texas Department of Transportation (TxDOT), prior to Work being performed on state highway routes passing through the City.

3.2.6 CONTRACTOR shall notify the Owner's Representative, Police Department, Fire Department, EMS, and Right of Way Management Division at least seven Calendar Days in advance of beginning proposed Work, with intention to close or partially block any street or any part thereof, or of any construction affecting free flow of traffic. The CONTRACTOR shall plan and adequately provide barricades and warning devices. The same parties shall be notified when normal traffic flow is restored.

3.2.7 Should the CONTRACTOR, in his operations, reduce an existing two-way roadway to less than 20 feet in width, CONTRACTOR shall provide a route through or around the narrowed area as approved by Owner or E/A.

3.2.8 The CONTRACTOR's Flaggers shall be required any time it is necessary for the CONTRACTOR's equipment to move into or across an open traffic lane, or at other such times as directed by the Owner's Representative. A flagger shall be utilized to aid exit of hauling equipment from open traffic lanes to the Work area, and entry of hauling equipment from Work area to open traffic lanes. Flaggers shall be dressed and conduct operations in accordance with Texas Manual on Uniform Traffic Control Devices and the Transportation Criteria Manual. Flagging operations shall be the sole responsibility of the CONTRACTOR.

3.2.9 The CONTRACTOR and Subcontractors shall confine their activities to the immediate area of the construction site and provide the following:

a. Appropriate temporary fences, barricades, and/or Metal Beam Guard Fence if required, for site work involving excavation, utility extensions, remote

construction work or other circumstances involving safety of public or protection of the work in progress.

b. Warning lights at open trenches, excavations, etc., during hours from dusk to dawn each day. Protection of structures, utilities, sidewalks, pavements, and other facilities immediately adjacent to excavations, from damages caused by settlement, lateral movement, undermining, washout and other hazards.

3.3 Spoil Disposal

CONTRACTOR may make other arrangements for spoil disposal subject to E/A evaluation of the CONTRACTOR-supplied proof that the Owner(s) of the proposed site(s) has a valid fill permit issued by the appropriate governmental agency. Finally, the CONTRACTOR shall submit a haul route plan including a map of the proposed route(s) for the E/A and Owner's approval.

3.4 Restoration

WATER AND WASTEWATER CONSTRUCTION REQUIREMENTS

3.4.1 In order to minimize environmental and potential flood impacts, the sum of the amount of trench opened in advance of the completed line and the amount of trench left unfilled at any time shall be restricted to one (1) full block or 300 linear feet, whichever is less.

3.4.2 Restoration shall be an on-going process during construction operations and shall immediately precede completion of construction of each successive section of the line, which shall not exceed 1,200 linear feet without approval of the E/A.

3.5 Street Markers and Traffic Control Signs

It shall be responsibility of the CONTRACTOR to remove, preserve and reset, as required, Street Marker and Traffic Control Signs that are within construction limits to the line and heights as described in Texas Manual on Uniform Traffic Control Devices before any sidewalks or street excavation is begun. Signs shall not be laid on the ground. No payment will be made for this work but shall be considered subsidiary to the various Bid items. Traffic Sign Activity Section of the Transportation Department (457-4850) shall be notified a minimum of five Working Days prior to completion of the Project so that signs may be checked for damage. Any damage to signs or posts shall be paid for by the CONTRACTOR.

3.6 Burning Permit

Open burning within City limits will not be allowed. Trench burning shall require a permit from the Fire Marshal. Burning permits outside City limits shall be obtained from the appropriate authority.

The CONTRACTOR shall secure and pay for all burning permits.

3.7 Driveways

Unless otherwise indicated, the approach grade of existing driveways shall be modified as indicated and as directed by the Owner's Representative. The OWNER will contact property owners whose driveways require grade modification beyond street right-of-way and the OWNER will obtain their concurrence for approach grade modification. Within the right-of-way, all driveways shall be replaced with concrete driveways. Outside the right-of-way, when approach grade modifications are required, flexible base shall be placed by the CONTRACTOR to resurface existing dirt or gravel driveways; asphalt and concrete drives shall be replaced in kind by the CONTRACTOR. Excavation, Flexible Base, Portland Cement Concrete and Asphaltic Concrete, used for driveways as prescribed above shall not be measured for payment but shall be considered subsidiary to various Bid items in the Contract unless payment is included as a separate Contract pay item.

3.8 Removal or Relocation of Fences and Sprinkler Systems

Removal or relocation of privately owned fences and sprinkler systems not specified in Bid, and within public right-of-way is the primary responsibility of the property owner. OWNER will cause property owners to be aware of any known conflicts and encourage them to make desired adjustments in advance of construction. In the event the property owner does not, or will not, make adjustments necessary for construction of improvements to be made under this Contract, CONTRACTOR, after receiving written approval from the OWNER, shall remove those portions that interfere with the Work, as follows:

3.8.1 Fences shall be disassembled, by hand, into hand manageable sizes and placed on the private property.

3.8.2 For sprinkler systems, the CONTRACTOR, after assuring that electrical and/or mechanical controls are disconnected, shall remove sprinkler heads, valves, controls, and any other miscellaneous items, including distribution pipe, or wire, saw cut from the system. The CONTRACTOR shall present these materials to the property owner. Where piping is cut, the pipe shall be permanently capped or plugged, unless otherwise directed by the OWNER.

Work for removal or relocation of fences and sprinkler systems shall not be paid for directly but shall be subsidiary to the various Bid items.

End

ARTICLE 1 - GENERAL

1.1 RELATED DOCUMENTS

The following documents are a part of this section:

All documents in Bidding Requirements, Contract Forms and Conditions of the Contract.

Other sections of Division 1 - General Requirements apply to this section.

1.2 DESCRIPTION AND INTENT OF THE WORK

No asbestos containing material (ACM) shall be brought onto the Project site, and/or incorporated into the Project construction without the written consent of the OWNER. Any asbestos containing material found at any time including after contract completion, to have been brought onto the site or incorporated into the Work by the CONTRACTOR, or any Subcontractors, Sub-Subcontractors or Suppliers, shall be removed and disposed of in accordance with the then current governmental regulatory standards.

All costs associated with the inspection, sampling, testing, removal and disposal of ACM as described above shall be paid by the CONTRACTOR.

1.3 DEFINITIONS

ASBESTOS: The asbestiform varieties of serpentine (chrysotile), riebeckite (crocidolite) cummingtonite-grunerite (amosite), anthophyllite, actinolite and tremolite.

ASBESTOS CONTAINING MATERIAL (ACM): Any material containing more than one percent (1%) by weight of asbestos of any type or mixture of types.

ASBESTOS CONTAINING BUILDING MATERIAL (ACBM): Any material used in the construction of, or incorporated into the construction of, any building that contains more than one percent (1%) by weight of asbestos of any type or mixture of types.

MSDS: A material safety data sheet (MSDS) is a form containing data regarding the properties of component substances that comprise a manufactured product. They are a basic hazard communication tool that gives details on chemical and physical dangers, safety procedures, and emergency responses for chemicals.

1.4 QUALITY ASSURANCE

PROHIBITION OF ASBESTOS CONTAINING MATERIALS

The OWNER has been instructed to not permit any asbestos containing materials to be specified, requested or approved for use in conjunction with this Project.

The E/A has signed the following:

A. 01900A Statement of Non-Inclusion of Asbestos Containing Material (E/A, Prior to Design): stating that the Engineer/Architect shall not specify, request or approve any ACM in this Work without prior written approval of OWNER.

B. 01900B Statement of Non-Inclusion of Asbestos Containing Material (E/A, After Design): stating that the Engineer/Architect has not specified, requested or approved any ACM in this Work without the prior written approval of the OWNER, and that any ACM allowed in this Project is identified in the Statements.

These Statements are included in the Construction Documents.

ASBESTOS CONTAINING MATERIALS PROHIBITED FROM SITE

No asbestos containing materials will be permitted as part of the Project construction. The following list is intended to be used as a general guide to show which types of materials are suspected to contain asbestos:

- Cement Pipes
- Cement Wallboard
- Cement Siding
- Asphalt Floor Tile
- Vinyl Floor Tile
- Vinyl Sheet Flooring/vinyl wall coverings
- Flooring Backing
- Construction Mastics (floor tile, carpet, ceiling tile, etc.)
- Acoustical Plaster
- Decorative Plaster / stucco
- Textured Paintings/Coatings
- Ceiling Tiles and Lay-in Panels
- Spray-Applied Insulation
- Blown-in Insulation
- Fireproofing Materials
- Taping Compounds (thermal)
- Packing Materials (for wall/floor penetrations)
- High Temperature Gaskets
- Laboratory Gloves
- Fire Blankets
- Fire Curtains
- Elevator Equipment Panels
- Elevator Brake Shoes
- HVAC Duct Insulation
- Boiler Insulation
- Breeching Insulation
- Ductwork Flexible Fabric Connections
- Cooling Towers
- Pipe Insulation (corrugated air-cell, block, etc.)
- Heating and Electrical Ducts
- Electrical Panel Partitions
- Electric Cloth
- Electric Wiring Insulation
- Chalkboards
- Roofing Shingles / tiles / membranes
- Roofing Felt
- Roof Coatings
- Base Flashing
- Thermal Paper Products
- Fire Doors
- Caulking/Putties
- Adhesives / mastics
- Wallboard
- Joint Compounds
- Spackling Compounds
- Laboratory hoods/tabletops
- CMU block fill materials

If any of these suspect materials are specified for use on the Work, and if they do not have specific labelling identifying them as asbestos free, then the CONTRACTOR shall notify the OWNER immediately. Laboratory analysis of the material by an OWNER-approved laboratory shall be performed at CONTRACTOR's expense in order to warrant that the material does not contain asbestos. A copy of the package labelling or results of laboratory testing must be provided to the OWNER prior to inclusion of the specified material during construction. Contractor's construction submittals must include MSDSs for all new materials used in construction of buildings, facilties and infrastructure.

1.5 SUBMITTALS

NON-USE OF ASBESTOS AFFIDAVITS

At the time that the CONTRACTOR signs the Agreement, they shall sign a Non-Use of Asbestos Affidavit (Contractor Prior to Construction), Contract Document 00680. This Affidavit certifies that the CONTRACTOR agrees that they will not allow any asbestos containing materials to be incorporated into the construction of the Work or allow any asbestos containing building materials on the site for which the OWNER has not given prior written approval.

Prior to final payment, the CONTRACTOR will provide to the OWNER a Non-Use of Asbestos Affidavit (Contractor After Construction), Contract Document 00681. This Affidavit certifies that the CONTRACTOR did not allow asbestos containing materials to be incorporated into the construction or allowed any

asbestos containing building materials on the site for which the OWNER of the Work did not give prior written approval.

ASBESTOS CONTAINING MATERIALS: When any asbestos containing materials are used on the Work, provide the following information:

A detailed description of the material containing the asbestos.

The type and percent of asbestos contained in the material.

The quantity of the materials used, including the square footage, or in the case of pipe insulation, the size and linear footage.

A drawing showing the exact location of any asbestos containing materials.

Final payment shall be withheld until the above described Affidavits, submittals and/or information are received and approved.

END

CITY OF AUSTIN

STATEMENT OF NON-INCLUSION OF ASBESTOS CONTAINING MATERIAL

STATE OF TEXAS
COUNTY OF TRAVIS

ENGINEER/ARCHITECT PRIOR TO DESIGN

"My name is Mark M. Mikol, P.E., hereinafter known as Authorized Representative.

"I am over the age of 18 years and I have never been convicted of a crime. I am the Sponsoring Engineer of Austin Water, Distribution System Engineering hereinafter known as ENGINEER/ARCHITECT.

"I am fully competent to make this statement. I have personal knowledge of the facts set forth below and they are all true and correct.

"WHEREAS ENGINEER/ARCHITECT has been selected to provide designs, to prepare the bid and construction documents, and to assist the City of Austin, Texas, hereinafter known as OWNER, during the construction of 2021 Waterline On-Call Services IDIQ, located at Various locations, Austin, Texas, hereinafter known as Project, and

"WHEREAS asbestos in a dust form is a recognized health hazard, and
"WHEREAS the OWNER desires not to have any asbestos containing materials used or incorporated into the construction of the Project;
"THEREFORE the ENGINEER/ARCHITECT affirms that to the best of its knowledge and belief:

1. The ENGINEER/ARCHITECT, any person, firm or organization representing or represented by the ENGINEER/ARCHITECT, shall not knowingly specify, request, or approve for use in conjunction with the Project, any asbestos containing materials or any other materials defined as containing asbestos by any laws, rules or regulations promulgated by the United States Government, the State of Texas or any governmental organization or agency operating under the authority of either of those entities.
2. Realizing that there might be materials required in which a satisfactory non-asbestos containing material cannot be obtained, the ENGINEER/ARCHITECT will do the following before specifying any asbestos containing material:
   A. Inform the OWNER's Project Manager for this Project, in writing, of any intent to specify asbestos containing materials.
   B. Receive written approval from the City of Austin Project Manager for the specifying of any asbestos containing materials.
   C. At the completion of the design phase, and before the OWNER receives any bids for this Project, provide to the Project Manager, in writing, the proposed location of any asbestos containing materials, the type of asbestos they contain, and the percent of asbestos by types.
3. The ENGINEER/ARCHITECT states its understanding that if any asbestos containing materials not approved by the OWNER for inclusion into the Project, are determined, as a result of any inspection and sample analysis performed by an individual(s) and/or firm(s) certified and/or licensed to perform such inspection by the United States Government and/or the State of Texas, to have been knowingly specified, requested and/or approved by the ENGINEER/ARCHITECT for inclusion in the Project, the OWNER shall look to the ENGINEER/ARCHITECT for reimbursement of any and all costs incurred in the removal and/or other abatement of said asbestos containing materials.
4. ENGINEER/ARCHITECT further understands that OWNER shall also look to the ENGINEER/ARCHITECT for any and all damages to OWNER which result from the inability of the OWNER to use any portion or all of the Project due to the incorporation of asbestos containing materials that have been knowingly specified, requested and/or approved by the ENGINEER/ARCHITECT.
5. ENGINEER/ARCHITECT further understands that OWNER will pursue reimbursement of any said cost and compensation for any said damages from the ENGINEER/ARCHITECT by any and every means within OWNER's right and power.

Signature of Authorized Representative: Mark M. Mikol

STATE OF TEXAS
COUNTY OF TRAVIS

ON June 24, 2020 personally appeared Mark M. Mikol and been duly sworn by me, subscribed to the foregoing statement and has stated that the facts stated therein are true and correct.

DORA SOTO-DERMA
My Notary ID # 129430150
Expires May 20, 2021

Notary Public, State of Texas Dora Soto-Derma

Printed Name of Notary Dora Soto-Derma

My Commission Expires: May 20, 2021

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CITY OF AUSTIN

STATEMENT OF NON-INCLUSION OF ASBESTOS CONTAINING MATERIAL

ENGINEER/ARCHITECT AFTER DESIGN

STATE OF TEXAS
COUNTY OF TRAVIS

"My name is Mark M. Mikol, P.E., hereinafter known as Authorized Representative.

"I am over the age of 18 years and I have never been convicted of a crime. I am the Sponsoring Engineer of Austin Water, Distribution System Engineering hereinafter known as ENGINEER/ARCHITECT.

"I am fully competent to make this statement. I have personal knowledge of the facts set forth below and they are all true and correct.

"WHEREAS ENGINEER/ARCHITECT has been selected to provide designs, to prepare the bid and construction documents, and to assist the City of Austin, Texas, hereinafter known as OWNER, during the construction of 2021 Waterline On-Call Services IDIQ, located at Various locations Austin, Texas, hereinafter known as Project, and

"WHEREAS asbestos in a dust form is a recognized health hazard, and
"WHEREAS the OWNER desires not to have any asbestos containing materials used or incorporated into the construction of the Project;
"THEREFORE the ENGINEER/ARCHITECT affirms that to the best of its knowledge and belief:

1. The ENGINEER/ARCHITECT, any person, firm or organization representing or represented by the ENGINEER/ARCHITECT, shall not knowingly specify, request, or approve for use in conjunction with the Project, any asbestos containing materials or any other materials defined as containing asbestos by any laws, rules or regulations promulgated by the United States Government, the State of Texas or any governmental organization or agency operating under the authority of either of those entities.
2. The only exceptions to the above statement are the following materials that are required because a satisfactory non-asbestos containing material cannot be obtained. The inclusion of these materials has been approved by the OWNER's Project Manager for this Project.

   NONE.

3. The ENGINEER/ARCHITECT states its understanding that if any asbestos containing materials not approved by the OWNER for inclusion into the Project, are determined, as a result of any inspection and sample analysis performed by an individual(s) and/or firm(s) certified and/or licensed to perform such inspection by the United States Government and/or the State of Texas, to have been knowingly specified, requested and/or approved by the ENGINEER/ARCHITECT for inclusion in the Project, the OWNER shall look to the ENGINEER/ARCHITECT for reimbursement of any and all costs incurred in the removal and/or other abatement of said asbestos containing materials.
4. ENGINEER/ARCHITECT further understands that OWNER shall also look to the ENGINEER/ARCHITECT for any and all damages to OWNER which result from the inability of the OWNER to use any portion or all of the Project due to the incorporation of asbestos containing materials that have been knowingly specified, requested and/or approved by the ENGINEER/ARCHITECT.
5. ENGINEER/ARCHITECT further understands that OWNER will pursue reimbursement of any said cost and compensation for any said damages from the ENGINEER/ARCHITECT by any and every means within OWNER's right and power.

Signature of Authorized Representative: _____

STATE OF TEXAS
COUNTY OF TRAVIS

ON June 26, 2020 personally appeared Mark M. Mikol and been duly sworn by me, subscribed to the foregoing statement and has stated that the facts stated therein are true and correct.

DORA SOTO-DERMA
My Notary ID # 129430150
Expires May 20, 2021

Notary Public, State of Texas Dora Soto-Derma

Printed Name of Notary Dora Soto-Derma

My Commission Expires: May 20, 2021

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