

El Paso Hills Channel Project for the County of El Paso

Bid 21-028



**Opening Date
08/12/2021**

El Paso County Code of Ethics Training Affidavit

(This form must be signed by an officer, principal, or individual authorized to bind the company under a contract with the County.)

IN COMPLIANCE WITH CHAPTER 161 OF THE TEXAS LOCAL GOVERNMENT CODE, ANY VENDOR INVOLVED IN A SINGLE PROCUREMENT EXCEEDING \$50,000 MUST COMPLETE THE ENCLOSED ETHICS TRAINING BEFORE SUBMITTING A BID OR PROPOSAL WITH THE COUNTY OF EL PASO.

Purpose: The stability of democracy depends upon the continuing consent of the governed, which in turn depends upon the trust the electorate holds for its government. The Ethics Commission of the County of El Paso, Texas, in concert with elected county officials, as well as leaders of the various county departments, recognizes the need to maintain the public trust and confidence in the workings of county government and thus adopts this Code of Ethics.

What is a vendor:

Any person or their representative or employee whose goods and services are purchased under the terms of a purchase order or contractual agreement with the county; and any other persons doing business with the County.

Procurement: In advising upon, discussing, recommending, and/or granting any County purchases, bids or contracts, County public servants shall inform themselves about their financial interests, and shall make a reasonable effort to inform themselves about the financial interest of their family members.

County public servants shall excuse themselves from exercising influence, participating in, discussing, recommending, and/or granting of any County purchases, bids, or contracts if they or a family member have a substantial financial interest.

Private Communication: No member of the El Paso County Commissioners Court, County Elected Officials/Department Heads or the El Paso County Hospital District Board of Managers shall permit any vendor, its lobbyists, representative, or employee to communicate with him privately regarding any procurement of items by the County or the Hospital District from the date that the bid, RFP, or RFQ is authorized or released, whichever is first. No private communication regarding the purchase shall be permitted by a member of the Commissioners Court, a county elected official/department head, or

El Paso County Code of Ethics Training Affidavit (continued)

the hospital district board of managers until the procurement process is complete and a purchase order is granted or a contract is entered into.

Members of the Commissioners Court, county elected officials/department heads and the board of managers shall make a reasonable effort to inform themselves regarding procurements and shall have a duty to inquire of vendors, their lobbyists, representatives, or employees, the nature of the private communication being sought prior to engaging in any communication.

This prohibition against private communication with vendors, their lobbyists, representatives, or employees shall apply to commissioner's court approval of hospital district purchases.

I _____ am an officer, principal, or individual
(Full Name)
authorized to bind the company, known as

(Company name)

By reading and signing this document, I confirm that I have been trained in the County of El Paso's Code of Ethics regarding Vendors. I understand that any contact by myself or any representative of the company with a County of El Paso official or county employee, other than those shown on the RFP or bid documents shall cause the bid or proposal to be immediately disqualified from consideration of award.

Name _____

Title _____

Company Name _____

Address _____

Signature _____

Date _____



**EL PASO COUNTY PURCHASING DEPARTMENT
800 E. OVERLAND AVE., ROOM 300
EL PASO, TEXAS 79901
(915) 546-2048
FAX: (915) 546-8180**

Memorandum

To: All Vendors

Subject: County Purchasing New Vendor/Bid System & Online Vendor Registration

The Purchasing Department has implemented its new bid processing vendor notification/registration system. The new system will allow vendors to register and maintain their vendor file real time without the intervention of the Purchasing Department. Vendors will maintain their address information and contact information; as well as the commodity information that the vendor wants to be considered for on County bid solicitations. Vendors will be given a choice of receiving hard copy bid notifications, or electronic notifications to the vendors designated email and/or cellular telephone text number. We hope that the changes will help our vendors receive their solicitations in a more effective and efficient manner that will benefit both the County and the vendor with more timely, accurate, competitive bids.

All vendors wishing to receive or continue to receive bid notifications must register in this new system at www.epcounty.com. /Bids & More/Vendors List. Thank you for your cooperation. If you have any questions please contact us at (915)546-2048.

INVITATION FOR BIDS

The County of El Paso will receive Bids for **El Paso Hills Channel Project for the County of El Paso, Bid 21-028**, until **2:00 p.m.**, on **Thursday, August 12, 2021**, at the County Purchasing Department, 800 East Overland, Rm 300 El Paso, Texas 79901, at which time and place all bids will be publicly opened and read aloud. **No in-person submittals are allowed. Vendors must mail via USPS or third-party carrier (i.e. Fed-Ex/UPS). The County of El Paso is not responsible for late deliveries of any kind or any reason.**

DUE TO THE CURRENT DISASTER DECLARATION

Note: Due to the County of El Paso Declaration of Local Disaster for the Public Health Emergency regarding COVID-19, The County Courthouse and all County Buildings and Facilities have closed to the public effective Monday, March 23, 2020 until further notice.

While all County buildings are closed to the public, all scheduled bid openings will occur via live video feed at the County YouTube Channel
https://www.youtube.com/channel/UCXwcq_JYs28xwL14oGAVPZg/videos.

During the live broadcast, citizens may call in at telephone (915) 546-2048 ext.4529. Allow for a 10-second delay during the live broadcast.

JOSE JR. LOPEZ
Interim Purchasing Agent

BASE BID

The project consists of but is not limited to the following:

Furnishing all labor equipment's, supplies, materials, and appurtenances necessary to perform the installation of the concrete lined channel along the El Paso Hills area. The construction shall comply with current local and federal requirements and acceptable construction standards.

ADDITIVE ALTERNATES – Any additive alternates included in this bid will be prioritized. Based on funding availability, Additive Alternate #1 will be selected first, followed by Additive Alternate #2 and so on.

Do not contact the requesting department. Any questions or additional information required by interested vendors must be emailed to: bidquestions@epcounty.com before **July 29, 2021, at 12:00 p.m.** Bid number and title must be on the "Subject Line" of the email. Attempts to circumvent this requirement may result in rejection of the bid as non-compliant.

Any changes in the specifications will be posted on the County website as an addendum. It is the bidder's responsibility to check the website prior to the bid opening date to verify whether any addendums have been posted. Website: www.epcounty.com; click button labeled "**Directory**", search for and select "**Purchasing**", click on button labeled "**List of Bids**".

A certified cashier's check, payable to the order of County of El Paso or a satisfactory Bid Bond in the amount equal to five percent (5%) of the total contract price, executed with a surety company authorized to do business in the State of Texas and must be included in the bid package.

The Contractor must ensure that employees and applicants for employment are not discriminated against because of their race, color, religion, sex, or national origin.

The County of El Paso reserves the right to reject any or all Bids or to waive any technicalities in the bidding.

Bids may be held by the County of El Paso for a period not to exceed ninety (90) days, or such longer time as may be required by the funding agencies, from the date of the bid opening for the purpose of reviewing the for the purpose of reviewing the Bids and investigating the qualifications of Bidders, prior to awarding of the Contract.

El Paso Hills Channel Project

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SCOPE OF WORK

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

Drawings sheets and contract documents.

1.2 SCOPE OF WORK

The work covered by this section of the specifications consists of furnishing all labor equipment, supplies, materials, and appurtenances necessary to perform the installation of the concrete lined channel along the El Paso Hills area. The construction shall comply with current local and federal requirements and acceptable construction standards.

The County has rough graded (+/- 6" of final grade) the existing earthen drainage way to construct a new drainage channel located at the El Paso Hills area. The Contractor shall be responsible for fine grading and excavation for joints and/or footings for the channel. The Contractor shall include these costs into the price of the project.

1.3 CONTRACTUAL TIME

The project has a construction schedule of 75 calendar days from date of notice to proceed (NTP) to reach substantial completion. At such time when Contractor feels that the project is substantially complete, he/she shall request a walk-through inspection to identify any deficiencies or unacceptable work. The contractor will have 21 calendar days from date of substantial completion to achieve final acceptance of project.

Typical workdays are considered starting work at 8:00 am to 5:00 pm, Monday through Friday. The Contractor shall request in writing for allowance to work on weekends a minimum of 1 week prior to schedule days. All County holidays shall be considered non-typical working days and will require written request one week prior to scheduled date.

PART 1 - PRODUCT – NONE

PART 2 - EXECUTION - NONE

END OF SECTION

PAYMENTS AND MEASUREMENTS

PART 3 - GENERAL

3.1 RELATED DOCUMENTS

Drawings and contract documents.

3.2 Lump Sum Total

Contractor shall familiarize him/herself with the project documents and specifications. All items included in this plan set shall be included in the bid and shall not be subject to additional cost for intended installation costs. The cost should include all labor, material, equipment, and miscellaneous items required to complete the project in its entirety.

3.3 Scope of Work

The Contractor shall prepare existing channel from subgrade elevation to final grade and ready to install cast in place concrete. The contractor shall install the final 6" lift of the channel and place 3,600 psi cast in place concrete channel. This project shall consist of installing 400 linear feet of the channel upstream of Mitchell Drive and shall price project as necessary to complete a functional concrete channel as per cross section detailed in specifications. The contractor shall also provide a cost per linear foot to build the channel downstream of Mitchell Drive (Alternate #1). This cost length of channel shall be determined during contract period of project and shall be determined based on available funding but not guaranteed.

3.4 NONCONFORMANCE ASSESSMENT

- A. The Contractor shall remove and replace the Work, or portion of the Work, not conforming to the Contract Documents at no expense to the Owner.
- B. If, in the opinion of the Engineer, it is not practical to remove and replace the Work, the Engineer will direct one of the following remedies:
 - 1. The nonconforming Work will remain as is, but the unit price will be adjusted to a lower price at the discretion of the Engineer.
 - 2. The nonconforming Work will be modified as authorized by the Engineer, and the price will be adjusted to a lower price at the discretion of the Engineer, if the modified Work is deemed to be less suitable than originally specified.
- C. Specification sections may modify these options or may identify a percentage or specific equation to be used for a price reduction.

- D. The authority of the Engineer to assess the nonconforming Work and identify payment adjustment is final.

3.5 NONPAYMENT FOR REJECTED PRODUCTS

Payment will not be made for any of the following:

1. Products wasted or disposed of in a manner that is not acceptable to the Engineer.
2. Products determined as nonconforming before or after placement.
3. Products not completely unloaded from transporting vehicle.
4. Products placed beyond the lines and levels of the required Work.
5. Products remaining on hand after completion of the Work, unless specified otherwise.
6. Loading, hauling, and disposing of rejected products.

3.6 REQUIREMENTS

- A. The general scope of work under item includes all labor, equipment and materials required for construction of completely functional and operational facilities as shown on the Drawings and in these Specifications.
- B. All estimated quantities for bid package stipulated in the bid proposal are solely the responsibility of the Contractor and to be used only as a basis for estimating the probable cost of the work. The basis of payment for work and materials will be the actual amount of work done and material furnished as measured by the Engineer.
- C. All measurements and payments will be based on completed and accepted work performed in strict accordance with the Drawings and Specifications and in accordance with contract unit bid prices. Incidental work and items not listed in the contract documents will not be paid for separately but shall be included in the payment for the listed item or items and shall be full compensation for all labor, equipment, materials, testing and incidentals necessary to perform the work in accordance with these contract documents.
- D. Separate payment will not be made for related items of subsidiary work but will be considered as part of the bid items in the proposal. Payment will be made for all work covered in this section and should be included in the lump sum bid item prices for items in the proposal. Such payment shall be complete compensation for the complete performance of the work in accordance with the drawings and the provisions of these specifications.

PART 4 - PRODUCT – NONE

PART 5 - EXECUTION

EROSION AND SEDIMENT CONTROL

PART 6 - GENERAL

6.1 Related documents

Drawings and contract documents.

6.2 WORK INCLUDED

Obtain permits and furnish labor, materials, equipment, and incidentals necessary to provide erosion and sediment control during construction including furnishing, installing, and maintaining erosion and sediment control structures and procedures and the proper removal when no longer required.

6.3 SUBMITTALS

Submittals shall be in accordance with Section 01300 - Submittals and shall include copies of approved documents and /or permits.

6.4 NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (npdes) PERMIT

A. A Storm Water Pollution Prevention Plan (SWP3) is required for this project. Storm water siltation and control devices shall conform to the TCEQ Construction Storm Water General Permit TXR 150000 and EPA NPDES. The Contractor shall prepare a SWP3 plan, **if necessary**, for the project and copy Engineer with SWP3, NOI, and NOT as applicable. Include cost of Plan and implementation in the most appropriate bid item.

1. One (1) acre or less of disturbed area and not part of a larger common plan
 - a. Coverage under the General Permit ([TXR150000](#)) is not required.
2. Five (5) acres or more disturbed area
 - a. Review the facility's [compliance history ranking](#);
 - 1) If the facility is new or has a ranking of "high" or "average," continue to Step b;
 - 2) If it is "poor," then the facility is not eligible for coverage under a general permit. Contactor shall apply for an [individual permit](#).
 - b. Read the general permit ([TXR150000](#)) to make sure it is applicable to the project;
 - c. Prepare and implement a Storm Water Pollution Prevention Plan. For more details, refer to Part III of General Permit [TXR150000](#).

- d. Submit an original completed Notice of Intent (NOI) form with an original signature and fee as noted on the NOI. Three options are available:
 - 1) Submit both the [NOI and fee payment electronically](#) through STEERS;
 - 2) Submit [the NOI on paper](#) and the [fee payment online via ePay](#);
 - 3) Submit the [NOI on paper](#) and the fee payment by check.
 - e. Prior to starting construction, a copy of the NOI and a copy of the Site Notice shall be posted at the construction site. Leave notices posted until construction is completed.
3. Five (5) acres and less of disturbed area (but at least 1 acre)
- a. If construction is to take place in a particular county during a particular time period when erosion is expected to be minimal (refer to Appendix A of [TXR150000](#)), the Contractor may be eligible for regulation under the [Low Potential for Erosion Requirements](#).
 - b. If the potential for soil to wash away during your construction activity is low, the Contractor may qualify for the [Low Rainfall Erosivity Waiver](#).
 - c. Even if the Contractor is eligible for coverage under a general permit, the Contractor may opt to request coverage under an [individual permit](#).
- B. Provide dust control in accordance with the SWP3.

END OF SECTION

CAST-IN-PLACE CONCRETE

PART 7 - GENERAL

7.1 RELATED DOCUMENTS

- A. Drawings and contract documents.

7.2 SCOPE

- A. This section of the specifications covers all of the work required for constructing concrete curbs, headers, sidewalks, driveways, manhole bases, valve cover aprons, splash boxes, channels, cast-in-place manholes, thrust collars and other miscellaneous work.
- B. Concrete for this project shall conform to the requirements of this section. The Contractor shall furnish all materials, equipment, tools, labor, superintendence, and incidentals necessary to perform the work in accordance with the drawings and these specifications.

7.3 GOVERNING REFERENCE SPECIFICATIONS

- A. The latest editions of the following specifications and references govern work of this section and constitute minimum requirements. Where specific requirements in this section of the Specifications are more stringent, they shall supersede the corresponding requirements of these Referenced Specifications.

7.4 AMERICAN CONCRETE INSTITUTE (ACI)

- A. ACI 301 Specifications for Structural Concrete Buildings
- B. ACI 301 Manual of Standard Practice for Detailing Reinforced Concrete Structures
- C. ACI 318 Building Code Requirements for Reinforced Concrete
- D. ACI 347 Recommended Practice for Concrete Formwork
- E. ACI 613 Recommended Practice for Concrete Formwork
- F. ACI 614 Recommended, Practice for Measuring, Mixing, and Placing Concrete
- G. ACI 621 Comm. Selection and Use of Aggregates for Concrete
- H. SP-7 ACI Manual of Concrete Inspection

7.5 AMERICAN SOCIETY FOR TESTING MATERIALS (ASTM)

- A. ASTM A-82 Cold Drawn Steel Wire for Concrete Reinforcement
- B. ASTM A-615 Deformed and Plain Billet-Steel Bars for Concrete Reinforcement
- C. ASTM A-616 Rail-Steel Deformed and Plain Bars for Concrete Reinforcement
- D. ASTM A-706 Low-Alloy Steel Deformed Bars for Concrete Reinforcement

- E. ASTM C-31 Making & Curing Concrete Compression and Flexure Test Specimens in the Field.
- F. ASTM C-33 Concrete Aggregates
- G. ASTM C-39 Compressive Strength of Molded Concrete Cylinders
- H. ASTM C-40 Organic Impurities In Fine Aggregates for Concrete
- I. ASTM C-42 Standard Method of Obtaining and Testing Drilled Cores and Sawed Beams of Concrete.
- J. ASTM C-94 Standard Method of Obtaining and Testing Drilled Cores and Sawed Beams of Concrete
- K. ASTM C-136 Standard Method of Test for Sieve or Screen Analysis of Fine and Coarse Aggregate
- L. ASTM C-138 Standard Method of Test for Weight per Cubic Foot, Yield and Air Content (Gravimetric) of Concrete
- M. ASTM C-143 Standard Method of Test for Slump of Portland Cement Concrete
- N. ASTM C-150 Standard Specification for Portland Cement
- O. ASTM C-171 Sheet Material for Concrete Curing
- P. ASTM C-172 Standard Method of Sampling Fresh Concrete
- Q. ASTM C-173 Air Content of Freshly Mixed Concrete by the Volumetric Method
- R. ASTM C-192 Standard Method of Making and Curing Concrete Compression and Flexure Test Specimens in the Laboratory
- S. ASTM C-231 Standard Method of Test for Air Content of Freshly Mixed Concrete by the Pressure Method
- T. ASTM C-260 Air-Entraining Admixture for Concrete
- U. ASTM C-309 Liquid Membrane-Forming Compounds for Curing Concrete
- V. ASTM C-494 Chemical Admixtures for Concrete
- W. ASTM C-618 Fly Ash and Raw or Calcined Natural Pozzolan for use as a Mineral Admixture in Portland Cement Concrete

7.6 PORTLAND CEMENT ASSOCIATION (PCA)

- A. Design and Control for Concrete Mixtures

7.7 AMERICAN WELDING SOCIETY (AWS)

- A. AWS D12.1 Recommended Practices for Welding Reinforcing Steel, Metal Inserts and Connections in Reinforced Concrete Construction

7.8 LATEST EDITION OF EACH OF THE ABOVE GOVERNING STANDARDS SHALL APPLY

7.9 EXCAVATION AND GRADING

- A. Excavation or filling for concrete structures and other miscellaneous concrete work shall conform to the lines and grades as shown on the plans or as established in the field and shall be as specified in the contract documents and/or County of El Paso standards.

PART 8 - PRODUCTS

8.1 CEMENT

- A. Portland cement shall conform to the latest revisions of A.S.T.M. Designation C-150, Type II, and shall be of an approved brand. Only one brand of cement will be permitted in any one structure. Plant tests and certificates of conformity with the specification shall be furnished with each carload of cement.

8.2 FINE AGGREGATE

- A. Fine aggregate shall consist of hard, strong, durable and uncoated particles of natural sand, washed and screened. The aggregate shall be free from injurious amounts of clay, soft or flaky materials, loam or organic impurities and the grading shall conform to the following:

Percentage Passing Square Openings

| No. 4 | No. 16 | No. 50 | No. 100 | No. 200 |
|--------|--------|--------|---------|---------|
| 95-100 | 45-70 | 15-30 | 3-8 | 0-3 |

- B. Fineness modulus shall not vary more than plus or minus 0.20 from that of approved sample, which shall be between 2.20 and 2.90.

8.3 COARSE AGGREGATE

- A. Coarse aggregate shall consist of hard, tough, durable and uncoated particles of washed and screened gravel or crushed stone. It shall be free of vegetation, soft, friable, thin, or elongated particles.
- B. Maximum size of coarse aggregate shall be governed by the conditions of placement of the concrete and shall not be greater than 3/4 of the distance between reinforcing bars. In no case shall the maximum size be greater than 2 inches. All aggregates shall be approved before use.

8.4 WATER

- A. Water shall be potable water, clear, free from oil, acid or organic matter and free from injurious amounts of alkali, salts, or other chemicals.

8.5 SHOP DRAWINGS

- A. Submit shop drawings for fabrication, bending, and placement of concrete reinforcement. Comply with ACI 315 showing bar schedules, stirrup spacing, diagrams of bent bars, and arrangement of concrete reinforcement. Include special reinforcement required at the openings through structures. Provide full wall and beam elevations of concrete and walls showing all embedments, vertical and horizontal reinforcing and all special reinforcement. Fabrication, bar bending, cutting, etc., shall be in accordance with the requirements as specified herein.
- B. Submit manufacturers product data with application and installation instructions for proprietary materials and items including reinforcement and forming accessories, admixtures, patching compounds, joint systems, bituminous damp-proofing, curing compounds and others as requested by the Engineer. Submit manufacture's certificate of conformance with these Specifications for all proprietary materials and products.

8.6 FORMS

- A. The forms shall be of wood or metal and shall be of sufficient strength to support the concrete without bulging between supports and sufficiently water tight to hold the concrete mortar. The forms shall be constructed such that the finished concrete shall be of the form and dimensions shown on the plans. All form work for exposed surfaces shall be of such material and so constructed as to produce a smooth, even surface when the concrete is placed. All forms shall be oiled before use. In general, wall forms may be removed after the concrete has been in place for 24 hours. All exposed edges shall have a 3/4-inch chamfer whether or not shown on the details. Immediately upon removal of the forms, any honeycombed sections shall be repaired as directed.

8.7 CONCRETE MIX

- A. Class "A" concrete shall contain not less than 5.5 sacks of cement per cubic yard. No more water shall be used than is required to produce a workable mix and in no case will the water content exceed 5.5 gallons per sack of cement. The proportioning of the constituents of the concrete shall be such as to produce a dense, and workable mixture, and the mix shall be approved before any concrete is placed. A suitable reducing admixture shall be used in proportioning the mix design.
- B. The minimum 28-day compressive strength for Class A concrete shall be 4000 psi.
- C. Pipe embedment concrete shall contain not less than 4 sacks of cement per cubic yard. No more water than 8 gallons of water per sack of cement shall be used. The proportioning of the constituents of the concrete shall be such as to produce a dense and workable mixture, and the mix shall be approved before any concrete is placed.

- D. Cement Stabilized Backfill for backfill stabilization shall contain a minimum 2 sacks of cement per cubic yard. No more water than 10 gallons per sack of cement shall be used.

PART 9 - EXECUTION

9.1 MIXING

- A. All aggregates shall be accurately weighed or measured by volume. The concrete shall be mixed in an approved batch mixer equipped with an accurate water measuring tank and shall be mixed for one- and one-half minutes after all materials are in the mixer. "Ready Mixed" or "Transit Mix" concrete may be used. If used, it shall conform to these specifications and the "Standard Specifications for Ready Mixed Concrete", A.S.T.M. Serial Designation C 94.
- B. Each mixer and agitator shall have attached thereto in a prominent place, a metal plate, or plates on which are plainly marked, for the various uses for which the equipment is designed, the capacity of the drum or container in terms of the volume of mixed concrete and the speed of rotation of the mixing drum, blades, or paddles. Stationary mixers shall be equipped with an acceptable timing device that will not permit the batch to be dispatched until the specified mixing time is elapsed. Truck mixers shall be equipped with means by which the number of revolutions of the drum blades, or paddles may be readily verified.
- C. The mixer, when loaded to capacity, shall be capable of combining the ingredients of the concrete within the specified time into a thoroughly mixed and uniform mass and of discharging the concrete with a satisfactorily degree of uniformity. No mixer or agitator shall be used if the results of slump tests of individual samples taken at approximately the one quarter, and the three-quarter points of the placement differ by more than 2-inches. Mixers and agitators shall be inspected frequently for changes in condition due to accumulations of hardened concrete or mortar, or to wear of blades.
- D. Truck mixers shall have adequate water supply and metering devices. No water can be added to the concrete after the initial mixing without the permission of the Engineer.
- E. After mixing, the concrete shall be transported to the forms in a manner, which will prevent separation or segregation of the aggregates and shall be placed without undue delay. It shall be deposited as nearly as practicable in its final position to avoid rehandling or flowing of the concrete. As the concrete is placed, it shall be vibrated by means of a vibrator of the type, which is submerged in the concrete.
- F. Mixing at mixing speed shall begin immediately after all ingredients are in the mixer. For complete mixing in the truck, each batch shall be mixed not less than 70 or more revolutions of the drum. For partial mixing in the truck each batch shall be mixed not less than 50 or more than 100 revolutions of

the drum. Mixing speed shall be as designated by the manufacturer. All revolutions after the prescribed mixing time shall be at agitating speed. The agitating speed shall be not less than one or nor more than four revolutions per minute. The drum shall be kept in continuous motion from the time mixing is started until the discharge is completed.

- G. The maximum time interval between the introduction of the mixing water to the cement and aggregates, and the placing of the concrete in the forms shall not exceed the following:

| AIR OR CONCRETE TEMPERATURE (Whichever is Higher) | MAXIMUM TIME |
|--|--------------|
| 90 degrees F. or above (Air Only) | 45 minutes |
| 75 degrees F. to 89 degrees F. | 60 minutes |
| 35 degrees F. to 74 degrees F. | 90 minutes |

- H. Concrete shall not be placed when the ambient temperature is less than 40 degrees Fahrenheit and falling but may be placed if the temperature is 40 degrees Fahrenheit and rising. Concrete shall not be placed when the temperature will drop below 35-degree Fahrenheit within 24 hours after placement as projected by the National Weather Service unless properly protected. The temperature of the concrete at the time of placement in the forms shall not be less than 50 degrees Fahrenheit nor more than 90 degrees Fahrenheit. When placing concrete in freezing weather, means shall be provided for keeping the concrete at a temperature of at least 50°F for not less than 72 hours after placing or until the concrete has thoroughly hardened. Concrete shall not be placed when weather conditions are unsuitable for such work.

9.2 TRANSPORTING

- A. Concrete shall be handled from the mixer to the place of final deposit in a manner that will prevent segregation and when practicable, shall be deposited in its final position without rehandling or flowing. All equipment used in transporting concrete shall be maintained in a clean condition. Concrete shall not be delivered from hoists, by spout, by trough, or dumped into carts with a free fall of more than 4 feet. Every precaution shall be taken to prevent separation or loss of ingredients while transporting the concrete. Runways for carts or buggies shall not bear upon the reinforcing or fresh concrete. Pumping and conveying of concrete shall be done only after approval by the Engineer and with equipment that will insure a continuous flow without segregation.

9.3 PLACING

- A. Concrete shall not be placed until all reinforcement is securely and properly fastened in its correct position. Form ties shall be checked and re-tightened where necessary. Forms and reinforcement shall be inspected and approved by the Engineer prior before beginning placement of concrete. All

embedded items shall be in place and clean-out openings closed before such inspection. A procedure for inspection of forms reinforcing, inserts, etc., prior to all concrete placements will be instituted and coordinated by the Engineer. At least 24 hours prior to concrete placement the Contractor shall submit an inspection sheet to the Engineer. The inspection sheet, to be developed shall show the location and quantity of concrete to be placed, the time and date schedule for placement and shall be signed by the Contractor's representative. Signing of this sheet will certify that all of the items necessary have been inspected, and that the area is ready for final review by the Engineer. If the Engineer determines that the corrections are excessive, the placement should be rescheduled, and the Engineer notified 12 hours before scheduled placement after the corrections are made. A representative of the Engineer will be on the job during the placement of concrete and concrete shall not be placed unless the Engineer or his representative is present.

- B. Concrete shall be placed in a manner that will prevent segregation, thoroughly embed all reinforcement and fixtures, fill all angles in the forms and prevent formation of aggregate pockets or honeycomb. Placement in walls columns or other deep forms shall be done through openings in the forms, spaced at frequent intervals, or through tremies so that the free fall shall not exceed 4 feet. Points of depositing the concrete shall be spaced so that the concrete surfaces can be kept level without using vibrators or others equipment to cause it to flow into place.
- C. Concrete shall be placed with the aid of approved mechanical vibrating equipment. Vibration shall be applied to the concrete and shall be of sufficient intensity and duration to cause flow or settlement of the concrete, thoroughly compacting, and complete embedment of reinforcement and fixtures. Supplemental forking and spading by hand may be required to secure dense uniform surfaces and complete filling of corners and angles.
- D. Excessive spading or vibrating causing undue water gain or segregation will not be permitted. If moderate working causes excessive water gain the mix shall be adjusted. Excess water shall be removed when it appears. When concrete in floors or slabs are deposited on the ground, the subgrade shall be thoroughly compacted and moistened before placement. A grill tamp shall be used on floor slabs. Completed sections shall conform to the details on the contract drawings and the concrete shall be dense, uniform, and free of aggregate pockets or honeycomb.
- E. Concrete in vertical walls shall be placed in continuous horizontal layers approximately 18 inches in depth. Not more than one hour shall elapse between the placing of successive layers of concrete in any portion of a structure included in a continuous placement.
- F. The contractor shall adhere to the requirements ACI 306 and ACI 605 for cold and hot weather concreting, respectively.

- G. Concrete shall generally not be placed during high winds with blowing dust that will contaminate the surface and cause entrapment of sand and dust particles in the finished surfaces.
- H. Slump: The slump of all concrete shall be between 3 and 6 inches with the condition governing the exact slump to be used. In all cases the Engineer shall specify the slump to be used prior to placement. When a 3-inch slump is specified, the allowable tolerance shall be 1/2 inch. When the specified tolerance is greater than 3 inches the tolerance shall be 1 inch. In general, flat work will require a slump of approximately 3" or more and concrete for vertical members, i.e. walls columns, etc., shall be 5 inches. Slump for concrete to be added to CMU units shall be 6 inches.

9.4 EXPOSED VERTICAL SURFACES

- A. Such surfaces shall have all tie rod holes filled, fins and rough edges removed, and all defects removed or patched. Following this the surfaces shall be rubbed with carborundum stones and clean, clear water until a smooth surface, uniform in color and texture has been obtained. This finishing shall be done as soon as is practical after removal of forms. No cement slurry stucco finishing will be permitted.

9.5 UNEXPOSED VERTICAL SERVICES

- A. Such surfaces shall be finished as specified for exposed vertical surfaces except that no rubbing will be required.

9.6 FLAT SLABS

- A. Flat slabs shall be troweled, after floating, and then lightly brushed to provide a "non-skid" surface.

9.7 EMBEDDED ITEMS

- A. All bolts, pipe, pipe sleeves, inserts or other fixtures required by the plans or these specifications to be embedded in the concrete, shall be set accurately in place and maintained in such positions during concreting operations.

9.8 BAR REINFORCING

- A. Except where plain bars are specifically shown on the plans, all bar reinforcing shall be deformed bars. The deformed bar reinforcing shall conform to the requirements of ASTM A-615 Grade 60. Plain steel bars including 1/4-inch diameter bars shall conform to the requirements of ASTM A-307, grade 60. Weldable reinforcing bars shall conform to ASTM-A-706.

9.9 WELDED WIRE FABRIC

- A. Welded wire fabric shall be as designated on the drawings and shall conform to the requirements of the Texas Department of Transportation.

9.10 STORING REINFORCING

- A. Reinforcing stored at the site shall be protected from accumulation of grease, mud, or other foreign matter and from rust producing conditions. Bars shall be free from loose flaky rust, scale, oil, mud, or structural defects when incorporated in the structures.

9.11 FABRICATION AND PLACING

- A. Reinforcement shall be accurately fabricated to the dimensions and shapes shown on the plans in accordance with the ACI Manual of Standard Practice unless variations are specifically shown on the plans.
- B. Reinforcement shall be accurately placed and adequately supported by concrete, metal or other approved chairs, spacers, or ties and shall be secured against displacement. Reinforcement shall be placed in specified positions within the following tolerances:
- C. Depth in structural slabs, flexural members, walls and columns: + 1/4 inch.
- D. Longitudinal location of bends and ends of bars: + 2 inches except that the required concrete cover at ends of members shall not be reduced.
- E. Unless noted otherwise on the Contract Drawings, the concrete cover for reinforcing shall be in accordance with the requirements of the ACI Building Code Requirements for Reinforced Concrete (ACI 318).
- F. Splices shall be made as shown on the Contract Drawings by lapping the bars the required amount and securely wiring them together. Where details of splices are not shown or where unanticipated splices are required, they shall be made in a location approved by the Engineer and the length of lap shall be as required by the ACI Building Code Requirements for Reinforced Concrete (ACI 318).
- G. Reinforcing bars partially embedded in concrete shall not be field bent, except as indicated on the Contract Documents or permitted by the Engineer.
- H. Torch cutting of reinforcing bars will not be allowed.
- I. Mats of wire fabric shall overlap each other sufficiently to maintain a uniform strength and shall be fastened securely at the ends and edges.

9.12 JOINTS

- A. Construction and expansion joints shall be constructed at the locations and in accordance with the details shown on the drawings. If it becomes necessary to stop placement of concrete between joints, or if the Contractor desires for his own convenience to construct joints other than those shown, such joints shall be made only at locations approved by the Engineer and all such joints shall be constructed in accordance with the plans and specifications.
- B. All horizontal joints shown on the plans shall be made truly horizontal and chamfered. Vertical joints shall be truly vertical.
- C. Before concreting operations are resumed at any construction joint, or wherever fresh concrete is to be bonded to hardened concrete, the surface of the hardened concrete shall be cut or chipped to remove laitance and expose aggregate. The surface of the concrete shall be thoroughly cleaned, saturated, then sloshed with a coating of neat cement grout against which the fresh concrete shall be placed before the grout has attained initial set. Care shall be taken to insure that the first layer of new concrete contains sufficient mortar for adequate bond.

9.13 EXPANSION JOINT MATERIALS

- A. Where pre-molded expansion joint material is shown on the plans such material shall be 1/2-inch Bituminous type preformed joint filler, AASHTO M-33.

9.14 JOINT CONSTRUCTION

- A. All joints shall be constructed in a workman like manner with joints truly vertical or horizontal, as required, and at right angles to the axis of the member in which the joint occurs. Expansion joint material shall be accurately positioned and held in position during placement of concrete.

9.15 CURING AND PROTECTING

- A. All concrete work shall be covered with burlap or other suitable material as soon as it has set sufficiently to prevent marking and kept wet continuously for at least five (5) days. Care shall be taken to prevent mechanical injury to concrete work during this period and until the work is accepted. Any work damage prior to acceptance shall be repaired to the satisfaction of the Engineer.
- B. All concrete work shall be protected until such time as it has set up sufficiently to prevent damage by vandals.
- C. In lieu of the above method of curing, the concrete may be cured by applying a liquid membrane coating to all exposed surfaces, provided the materials and method of application are first approved by the Engineer. The coating shall conform to A.S.T.M. Designation C-309.

- D. Suitable means shall be provided to prevent concrete from freezing for not less than 72 hours after placing. Any concrete damaged by freezing shall be removed and replaced by the Contractor at his expense. The addition of any admixture of chemicals to the concrete to prevent freezing shall not be allowed, unless specifically approved by the Engineer.

9.16 DEFECTIVE WORK

- A. Any defective work disclosed after the forms have been removed shall be immediately removed and replaced. If any dimensions are deficient, or if any section is not constructed to the proper grade, or if the surface of the concrete is bulged, uneven, or shows honeycomb, which in the opinion of the Engineer cannot be repaired satisfactorily, the entire section shall be removed and replaced at the expense of the Contractor.

9.17 FORMWORK

- A. Forms may be removed only upon approval by the ENGINEER. In general, removal of wall forms shall not be permitted within 24-hours. Adequate reshoring shall be placed when forms are removed, and backfilling is begun and shall remain in place until the design 28 day compressive strength is attained. The attained strength shall be determined from standard test cylinders molded, cured, and broken in accordance with ASTM C31. The strength of the concrete shall be assumed to be the average strength of the two cylinders tested. If the Contractor wishes to determine the strength of the concrete prior to the 28-day tests, the Contractor shall bear the cost as well as the responsibility of obtaining additional cylinders as well as the tests.
- B. It shall be the responsibility of the Contractor, in all form removal, to prevent damage or marring of the concrete surfaces.

9.18 BACKFILLING

- A. Backfill material behind and adjacent to all concrete work shall meet structural fill requirements. This material shall be free from organic material such as leaves, grass, roots and other unsuitable materials and free of rocks or stones. The Contractor shall provide a smooth, even slope between the existing ground and the top of curb or other concrete structure.
- B. Care shall be taken during the backfill and cleanup process not to scrape, chip, crack or otherwise damage the concrete including tire marks from equipment or trucks. Any damaged concrete and/or asphalt will be removed and replaced at the expense of the Contractor.

9.19 PAYMENT

- A. Payment will be made for all work covered in this section at the contract unit price per unit or will be included in the lump sum price per job for items, as shown on the proposal. For items not specifically addressed by unit price

per unit nor included in a lump sum price per job, payment shall be included in the Contractor's Bid Price for the work. Such payments shall be complete compensation for the complete performance of the work in accordance with the drawings and the provisions of these specifications.

END OF SECTION

Bid Price Sheet/Signature Page

Bid 21-028

Paso Hills Channel Project for the County of El Paso

Bidder will provide the material in accordance with the Contract Documents for the following price(s):

Do not include tax, as the County is tax-exempt. The County will sign tax exemption certificates covering these items. Please submit one (1) original copy, one hard copy and two (2) electronic copies in Word/PDF Format of your bid. The electronic copies must reflect the original hard copy.

NOTE: Any vendor that does not submit pricing in price sheet provided will not be considered for award. Submittal in a different form is subject to disqualification.

| Base Bid – Cast in place concrete Channel (28-foot cross section -400 linear feet) (per detail) | | | |
|--|----------------------------|--------------|--------------|
| Item | Description | Units | Total |
| 1 | 500 linear feet of channel | Lump Sum | \$ |

| Alternate # 1 – Cast in place concrete Channel (28-foot cross-section per linear foot) to be build down stream of Mitchell Road | | | |
|--|--|--------------|------------------------|
| Item | Description | Units | Unit Price/Foot |
| 1 | Linear foot of channel x 28' cross-section of concrete channel | Linear foot | \$ |

Contractor must be responsible for incorporating all costs to include but not limited to labor, materials, equipment, overhead and miscellaneous cost, associated with project within the bid items and any miscellaneous items required from the contractor must be rolled up within the total base bid.

Bidder acknowledges that estimated quantities are not guaranteed and are solely for the purpose of comparison of Bids, and final payment for all Unit Price Bid items will be based on actual quantities, determined as provided in the contract Documents.

| | |
|--------------------------------|------------------------------------|
| _____ | _____ |
| Company | Mailing Address |
| _____ | _____ |
| Federal Tax Identification No. | City, State, Zip Code |
| _____ | _____ |
| Representative Name & Title | Telephone Number include area code |
| _____ | _____ |
| Signature | Fax Number include area code |
| _____ | _____ |
| Date | Email Address |

INSTRUCTIONS TO BIDDERS

1. BID FORMS

These Contract Documents include a complete set of bidding and contract forms, which are for the convenience of bidders.

2. INTERPRETATIONS OF ADDENDA

No oral interpretation will be made to any Bidder as to the meaning of the Contract Documents or any part thereof. Every request for such an interpretation shall be made in writing to the County of El Paso Purchasing department. Any inquiry received prior to **July 29, 2021** will be given consideration. Every interpretation made to a Bidder will be in the form of an Addendum to the Contract Documents, and when issued, will be on file in the County Purchasing department at least five days before Bids are opened. In addition, all addenda will be posted on the County's website. It shall be the Bidder's responsibility to check the County website to verify if any Addenda have been issued. All such Addenda shall become part of the Contract and all Bidders shall be bound by such Addenda, whether or not received by the Bidders.

3. INSPECTION OF SITE

Each Bidder should fully acquaint him/herself with the existing conditions of the site of the proposed work relating to construction and labor, and should fully inform him/herself as to the facilities involved, the difficulties and restrictions attending the performance of the Contract. The Bidder should thoroughly examine and familiarize himself with the Drawings, Technical Specifications, and all other Contract Documents. The Contractor by the execution of the Contract must in no way be relieved of any obligation under it due to his failure to receive or examine any form or legal instrument or to visit the site and acquaint himself with the conditions there existing and the County will be justified in rejecting any claim based on facts regarding which he should have been on notice as a result thereof.

4. ALTERNATIVE BIDS

No alternative bids will be considered unless alternative bids are specifically requested by the technical specifications.

5. BIDS

All Bids must be submitted on forms supplied by the County of El Paso and shall be subject to all requirements of the Contract Documents, including the Drawings, and these INSTRUCTIONS TO BIDDERS. All Bids must be regular in every respect and no interlineations; excisions or special conditions shall be made or included in the Bid Form by the Bidder.

Bid Documents including the Bid, the Bid Guarantee, the Non-Collusion Affidavit and the Statement of Bidder's Qualifications (if requested) must be enclosed in envelopes (outer and inner), both of which shall be sealed and clearly labeled with the words "Bid

Documents", bid number, project name, name of Bidder, and date and time of bid opening in order to guard against premature opening of the Bid.

The County may consider as irregular any Bid on which there is an alteration of or departure from the Bid Form hereto attached and at its option may reject the same.

If the Contract is awarded, the County will award it to a responsible Bidder on the basis of the lowest bid as provided by law and the selected Alternative Bid items, if any. The Contract will require the completion of the work according to the Contract Documents.

6. BID GUARANTEE

The Bid Guarantee must ensure the execution of the Agreement and the furnishing of the surety bond or bonds by the successful Bidder, all as required by the Contract Documents.

b. Revised Bids submitted before the opening of bids, whether forwarded by mail, if representing an increase in excess of two percent (2%) of the original Bid, must have the Bid Guarantee adjusted; accordingly, otherwise the Bid will not be considered.

c. Certified cashier's checks or the amount thereof, bid bonds of unsuccessful Bidders will be returned as soon as practical after the opening of the Bids.

7. COLLUSIVE AGREEMENTS

a. Each Bidder submitting a Bid to a The County for any portion of the work contemplated by the documents on which bidding is based must execute and attach thereto, an affidavit substantially in the form herein provided, to the effect that he has not entered into a collusive agreement with any other person, firm, or corporation regarding any Bid submitted.

b. Before executing any subcontract the successful Bidder must submit the name of any proposed subcontractor for prior approval in a notarized affidavit.

8. CONTRACT PRICE QUOTES

A lump sum quote must be submitted. However, for changing quantities of work items from those indicated by the contract drawings, a breakdown of the lump sum quote into unit prices shall also be provided. These unit prices must include all labor, materials, bailing, shoring, removal, overhead, profit, insurance, etc., to cover the finished work of the several kinds called for. Any changes must be processed in accordance with the GENERAL CONDITIONS. The net monetary values of such additive and subtractive changes, if any, shall not increase the original contract price by more than twenty-five (25%), unless required to comply with a new law, rule, regulation, or judicial decision. The original contract price must not be decreased by eighteen (18%) or more without the consent of the contractor. There is an exception to these for work not covered in the drawings and technical specifications as provided.

9. CORRECTIONS

Erasures or other changes in the contractor's bid response must be explained or noted over the signature of the Bidder.

10. TIME FOR RECEIVING BIDS

Bids received prior to the advertised hour of opening will be securely kept sealed. The officer whose duty it is to open them will decide when the specified time has arrived, and no Bid received thereafter will be considered under any circumstances.

11. OPENING OF BIDS

At the time and place fixed for the opening of Bids, the County will cause to be opened and publicly read aloud every Bid received within the time set for receiving Bids, irrespective of any technicalities therein. Bidders and other persons properly interested may be present, in person or by representative.

12. WITHDRAWAL OF BIDS

Bids may be withdrawn on written request dispatched by the Bidder in time for delivery in the normal course of business to the time fixed for opening. The bid guarantee of any Bidder withdrawing his Bid in accordance with the foregoing conditions will be returned promptly.

13. AWARD OF CONTRACT: REJECTION OF BIDS

a. The contract will be awarded to the responsible Bidder submitting the lowest Bid complying with the conditions of the Invitation for Bids and applicable law. The Bidder to whom the award is made will be notified at the earliest possible date. The County, however, reserves the right to reject any and all Bids and to waive any technicality in Bids received whenever such rejection or waiver is in its interest.

b. The County reserves the right to consider as unqualified to do the work of general construction any Bidder who does not habitually perform with his own forces the major portions of the work involved in construction of the improvements embraced in this Contract.

EXECUTION OF AGREEMENT: PERFORMANCE AND PAYMENT BONDS

a. Subsequent to the award within thirty (30) days after the prescribed forms are presented for signature, the successful Bidder shall execute and deliver to the County an Agreement in substantially the form included in the Contract Documents in such number of copies as the County may require. If the Bidder objects to any provision in the form contract, it should be noted in the bid and suggested alternate language proposed.

Having satisfied all conditions of award as set forth elsewhere in these documents, the successful Bidder shall, within ten (10) days of notice of award, furnish two (2) surety bonds, each in a penal sum of 100% of the amount of the Contract. A **Performance Bond** shall serve as security for the faithful performance of the Contract. A **Payment Bond** shall serve as surety for the payment of all persons, firms, or corporations to whom the Contractor may become legally indebted for labor, materials, tools, equipment, or services of any nature

including utility and transportation services, employed or used by him in performing the work. Such bonds shall be in the same form as those included in the Contract documents and shall bear the same date as, or a date subsequent to that of the Agreement. The current power of attorney for the person who signs for any surety company shall be attached to such bonds. These bonds shall be signed by a surety company listed in the latest issue of the U.S. Treasury Circular 570 and such surety must be authorized to do business in Texas in accordance with the provisions of Government Code Section 2253.001 et seq. The penal sums shall be within the maximum specified for such company in said Circular 570.

The failure of the successful Bidder to execute such Agreement and to supply the required bond or bonds within thirty (30) days after the prescribed forms are presented for signature, or within such extended period as the County may grant, based upon reasons determined sufficient by the County, shall constitute a default, and the County may either award the Contract to the next lowest responsible Bidder or re-advertise for Bids, and may charge against the Bidder the difference between the amount of the Bid and the amount for which a Contract for the work is subsequently executed, irrespective of whether the amount thus due exceeds the amount of the Bid Bond. If a more favorable Bid is received by re-advertising the defaulting Bidder shall have no claim against the County for a refund.

15. EQUAL EMPLOYMENT OPPORTUNITY

Attention of Bidders is particularly called to the requirement for ensuring that employees and applicants for employment are not discriminated against because of their race, color, religion, sex or national origin.

CONTRACT AGREEMENT

WITNESSETH, that the Contractor and The County for the considerations stated herein mutually agree as follows:

ARTICLE 1. Statement of Work The Contractor must furnish all supervision, technical personnel, labor, materials, machinery, tools, equipment and services, including utility and transportation services, and perform and complete all work required for the construction of the Improvements embraced in the Project, namely, as described in the BASE BID, and required supplemental work for the **El Paso Hills Channel Project for the County of El Paso**, all in strict accordance with the Contract Documents including all addenda thereto, numbered, dated _____, and _____ dated _____, all as prepared by _____ acting and in these Contract Documents Preparation, referred to as the "Engineer".

ARTICLE 2. The Contract Price The County will pay the Contractor for the performance of the Contract in current funds, for the total quantities of work performed at the Contract price stipulated in the Bid for the several respective items of work completed subject to additions and deductions as provided in Fixed Price Construction Contract.

ARTICLE 3. CONTRACT. The executed contract documents shall consist of the following:

- This Agreement
- Addenda
- Invitation for Bids
- Instructions to Bidders
- Signed copy of Bid
- General Conditions
- Technical Specifications
- Drawings (as listed in the Schedule of Drawings)
- Prevailing wage rates
- Fixed Price Construction Contract (see sample contract included in this bid)

This Agreement, together with other documents enumerated in this ARTICLE 3, which said other documents are fully a part of the Contract as if hereto attached or herein repeated forms the Contract between the parties hereto. In the event that any provision in any component part of this Contract conflicts with any provision of any other component part, the provision of the component part first enumerated in this ARTICLE 3 shall govern, except as otherwise specifically stated.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed in 4 original copies on the day and year first above written.

_____ By
_____ Title

_____ By
_____ Title

BID FORM (LUMP SUM CONTRACT)

Place County of El Paso Purchasing Department

Date _____

Project No. **Bid 21-028 El Paso Hills Channel Project for the County of El Paso**

Proposal of _____ (hereinafter called Bidder), a corporation organized under the laws of the State of _____/a partnership/an individual doing business as _____(strike out inapplicable references) and authorized to do business in Texas.

To the County of El Paso (hereinafter called Owner).

Gentlemen:

The Bidder, in compliance with your invitation for bids for the construction of the El Paso Hills Channel Project for the County of El Paso that consists of the following:

The project consists of but is not limited to the following:

Furnishing all labor equipment, supplies, materials and appurtenances necessary to perform the installation of the concrete lined channel along the El Paso Hills area. The construction shall comply with current local and federal requirements and acceptable construction standards.

having examined the plans and specifications with related documents and the site of the proposed work and being familiar with all of the conditions surrounding the construction of the proposed project including the availability of materials and labor, hereby proposes to furnish all labor, materials, and supplies: and to construct the project in accordance with the Contract Documents within the time set forth herein, and at the prices stated below. These prices are to cover all expenses incurred in performing the work required under the Contract Documents, of which this proposal is a part.

Bidder hereby agrees to commence work under this contract on or before a date to be specified in a written "Notice to Proceed: of the Owner and to fully complete the project within 75 consecutive calendar days thereafter as stipulated in the specifications. Bidder further agrees to pay as liquidated damages, the sum of \$500 for each consecutive calendar day thereafter as hereinafter provided in the GENERAL CONDITIONS.

Bidder acknowledges receipt of the following addenda:

| Date | Addendum Number |
|-------|-----------------|
| _____ | _____ |
| _____ | _____ |

UNIT PRICES

For changing quantities of work items from those indicated by the contract drawings upon written instructions from the architect/engineer, the following unit prices shall prevail:

The above unit prices shall include all labor, materials, bailing, shoring, removal, overhead, profit, insurance, etc., to cover the finished work of the several kinds called for. Changes shall be processed in accordance with the GENERAL CONDITIONS.

Bidder understands that the Owner reserves the right to reject any or all bids and to waive any technicalities in the bidding.

The bidder agrees that this bid shall be good and may not be withdrawn for a period of 30 calendar days after the scheduled closing time for receiving bids.

Upon receipt of Owner's written acceptance of this bid, Bidder will execute the formal contract attached within 7 days and deliver a Payment Bond, a Performance Bond, and Insurance Certificate(s) as required by the GENERAL CONDITIONS.

The bid security attached in the sum of _____ (_____) is to become the property of the Owner in the event the contract and bonds are not executed within the time above set forth, as liquidated damages for the delay and additional expense to the Owner caused thereby.

Respectfully submitted:

By _____

TITLE

ADDRESS

BID BOND

KNOW ALL MEN BY THESE PRESENTS, that we the undersigned, as PRINCIPAL, AND _____, as SURETY are held and firmly bound unto hereinafter called the "El Paso County", in the penal sum of _____ Dollars, (\$_____), lawful money of the United States, for the payment for which sum well and truly to be made we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that whereas the Principal has submitted the accompanying Bid, dated _____, 20____, for **El Paso Hills Channel Project for the County of El Paso, Bid 21-028**

NOW, THEREFORE, if the Principal shall not withdraw said Bid within the period specified therein after the opening of the same, or, if no period be specified, within thirty (30) days after the said opening, and shall within the period specified therefore, or if no period by specified, within ten (10) days after the prescribed forms are presented to him for signature, enter into a written Contract with the County in accordance with the Bid as accepted, and give bond with good and sufficient surety or sureties, as may be required, for the faithful performance and proper fulfillment of such contract or in the event of the withdrawal of said Bid within the period specified, or the failure to enter into such Contract and give such bond within the time specified, if the Principal shall pay the County the difference between the amount specified in said Bid and the amount for which the County may procure the required work or supplies or both, if the latter be in excess of the former, then the above obligation shall be void and of no effect, otherwise to remain in full force and virtue.

IN WITNESS WHEREOF, the above-bounded parties have executed this instrument under their several seals this _____ day of, 20____, the name and corporate seal of each corporate party being hereto affixed and these present signed by its undersigned representative, pursuant to authority of its governing body.

(Forms of Bid Bonds prepared to meet the requirements of Local or State Laws or the needs of the the County should be substituted for this form where necessary.)

Attest: _____

By: _____

Attest: _____

By: _____

Countersigned By: _____

Attorney-in-Fact, State of _____

Power-of-Attorney for person signing for the surety company must be attached to bond.

If Bidder is a Corporate, required: CERTIFICATE AS TO CORPORATE PRINCIPAL

I, _____, certify that I am the, _____, Secretary of the Corporation named as Principal in the within bond; that, who signed the said bond on behalf of the Principal was then _____ of said corporation; that I know his signature, and his signature thereto is genuine; and that said bond was duly signed, sealed, and attested to for and in behalf of said corporation by authority of this governing body.

_____ (Corporate Seal)

_____ Title

PAYMENT BOND

_____, as
surety ("Surety"), *(Insert Proper Name of Surety)*

and

(Insert Proper Name of Contractor)

as principal ("Contractor"), enter into, execute this bond ("Payment Bond"), and bind
themselves in favor of

(Insert Proper Name of Owner)

as obligee ("Owner") in the penal sum of \$ _____,
(Insert Penal Sum)

as of the _____
(Insert Date of Construction Contract)

WHEREAS, the Contractor has executed a contract with the Owner of even date
herewith ("Construction Contract") for construction of _____

(Insert Description and Location of the Construction Project)

("Project"); and,

WHEREAS, the Owner has required the Contractor to furnish this Payment Bond
containing the terms and conditions set forth herein as a condition to executing the
Construction Contract with the Contractor;

NOW THEREFORE, the Surety and the Contractor, both jointly and severally, and
for themselves, their heirs, administrators, executors and successors agree:

1.

The Construction Contract is hereby incorporated herein and by reference made
a part hereof to the same extent and effect as though it were copied verbatim herein. The
Surety and the Contractor are bound for the full performance of the Construction Contract
including without exception all of its terms and conditions, both express and implied, and,
without limitation, specifically including Contractor's obligation to pay for labor, materials,
services and equipment provided in connection with the Construction Contract
performance;

2.

For purposes of this Payment Bond, Beneficiary is defined as a person or entity who has actually provided labor, material, equipment, services or other items for use in furtherance of the Construction Contract, and having:

- (A) a direct contract with the Contractor; or
- (B) a direct contract with a subcontractor of the Contractor; or
- (C) rights, under the laws of the jurisdiction where the Project is located, to file a lien, a claim or notice of lien, or otherwise make a claim against the Project or against funds held by the Owner, if the Project is, or were, subject to such filing.

3.

The Surety shall not be obligated hereunder to a Beneficiary other than a Beneficiary having a direct contract with the Contractor unless such Beneficiary has given written notice of its claim to the Contractor and the Surety within the longer of:

- (A) ninety (90) days after such Beneficiary provided labor, material, equipment, services or other items for use in furtherance of the Construction Contract; or,
- (B) the period of time provided by the jurisdiction wherein the Project is located for (1) filing of a lien, claim of lien, notice of lien, if the Project is, or were, subject to such filing, or (2) otherwise making a claim against the Project or against funds held by the Owner; stating the amount claimed and identifying, by name and address, the person or entity to whom such labor, material, equipment, services or other items were provided.

4.

In no event shall the Surety be obligated hereunder for sums in excess of the Penal Sum.

5.

Upon receipt of a claim from a Beneficiary hereunder, the Surety shall promptly, and in no event later than 30 days after receipt of such claim, respond to such claim in writing (furnishing a copy of such response to the Owner) by:

- (A) making payment of all sums not in dispute; and,
- (B) stating the basis for disputing any sums not paid.

6.

No action shall be commenced by a Beneficiary hereunder after the passage of the longer of one (1) year following final completion of the Construction Contract or, if this bond is provided in compliance with applicable law, any limitation period provided therein. If the limitation period contained in this Paragraph is unenforceable, it shall be deemed amended to provide the minimum period for an action against the Surety on a payment bond by a third-party beneficiary thereof.

7.

Any and all notices to the Surety or the Contractor shall be given by Certified Mail, Return Receipt Requested, to the address set forth for each party below:

SURETY:

CONTRACTOR:

OWNER:

CONTRACTOR:

SURETY:

SEAL
(INSERT PROPER NAME OF CONTRACTOR)

SEAL
(INSERT PROPER NAME OF SURETY)

By: _____
(SIGNATURE OF AUTHORIZED SIGNATORY)

By: _____
(SIGNATURE OF AUTHORIZED SIGNATORY)

(OFFICE OR TITLE OF PERSON SIGNING)

(OFFICE OR TITLE OF PERSON SIGNING)

Note: Date of BOND must not be prior to date of Contract. If CONTRACTOR is Partnership, all partners should execute BOND.

IMPORTANT: Surety companies executing BONDS must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the state where the PROJECT is located.

PERFORMANCE BOND

_____ as ("Surety"),
(Insert Proper Name of Surety)

and

(Insert Proper Name of Contractor)

as principal ("Contractor"), enter into, execute this bond ("Performance Bond"), and bind themselves in favor of

(Insert Proper Name of Owner)

as obligee ("Owner"), in the penal sum of \$_____,
(Insert Penal Sum)

as of the _____
(Insert Date of Construction Contract)

WHEREAS, the Contractor has executed a contract with the Owner of even date herewith ("Construction Contract") for construction of

(Insert Description and Location of the Construction Project)

and,

WHEREAS, the Owner has required the Contractor to furnish this Performance Bond containing the terms and conditions set forth herein as a condition to executing the Construction Contract with the Contractor;

NOW THEREFORE, the Surety and the Contractor, both jointly and severally, and for themselves, their heirs, administrators, executors and successors agree:

1.

The Construction Contract is hereby incorporated herein and by reference made a part hereof to the same extent and effect as though it were copied verbatim herein. The Surety and the Contractor are bound for the full performance of the Construction Contract including without exception all of its terms and conditions, both express and implied.

2.

If the Contractor is in default of the Construction Contract and the Owner, by written notice to the Contractor and the Surety, declares the Contractor to be in default and terminates the right of the Contractor to proceed, the Surety shall thereupon promptly notify the Owner in writing as to which of the actions permitted to the Surety in Paragraph 3 it will take.

3.

Upon default and termination of the Contractor and notice to the Contractor and Surety as provided in Paragraph 2 above, the Surety shall within 30 days proceed to take one or, at its option, more than one of the following courses of action:

(A) Proceed itself, or through others acting on its behalf, to complete full performance of the Construction Contract including, without limitation, correction of defective and nonconforming work performed by or on behalf of the Contractor. During such performance by the Surety the Owner shall pay the Surety from its own funds only such sums as would have been due and payable to the Contractor in the absence of the default and termination.

(B) Applicable law permitting, and with the prior written consent of the Owner, obtain bids or proposals from contractors previously identified as being acceptable to the Owner, for full performance of the Construction Contract. The Surety shall furnish the Owner a copy of such bids or proposals upon receipt of same. The Surety shall promptly select, with the agreement of the Owner, the best responsive bid or proposal and shall promptly tender the contractor submitting it, together with a contract for fulfillment and completion of the Construction Contract executed by the completing contractor, to the Owner for the Owner's execution. Upon execution by the Owner of the contract for fulfillment and completion of the Construction Contract, the completing contractor shall furnish to the Owner a performance bond and a separate payment bond, each in the form of those bonds previously furnished to the Owner for the Project by the Contractor. Each such bond shall be in the penal sum of the (1) fixed price for completion, (2) guaranteed maximum price for completion, or (3) estimated price for completion, whichever is applicable. The Owner shall pay the completing contractor from its own funds only such sums as would have been due and payable to the Contractor under the Construction Contract as and when they would have been due and payable to the Contractor in the absence of the default and termination. To the extent that the Owner is obligated to pay the completing contractor sums which would not have then been due and payable to the Contractor under the Construction Contract, the Surety shall provide the Owner with such sums in a sufficiently timely manner that the Owner can utilize such sums in making timely payment to the completing contractor; or,

(C) Take any and all other acts, if any, mutually agreed upon in writing by the Owner and the Surety.

4.

In addition to those duties set forth hereinabove, the Surety shall promptly pay the Owner all loss, costs and expenses resulting from the Contractor's default(s), including, without limitation, fees, expenses and costs for architects, engineers, consultants, testing, surveying and attorneys, liquidated or actual damages, as applicable, for delay in completion of the Project, and fees, expenses and costs incurred at the direction, request, or as a result of the acts or omissions of the Surety.

5.

In no event shall the Surety be obligated to the Owner hereunder for any sum in excess of the Penal Sum.

6.

The Surety waives notice of any changes to the Construction Contract including, without limitation, changes in the contract time, the contract price, or the work to be performed.

7.

This Performance Bond is provided by the Surety for the sole and exclusive benefit of the Owner and, if applicable, any dual obligee designated by rider attached hereto, together with their heirs, administrators, executors, successors or assigns. No other party, person or entity shall have any rights against the Surety hereunder.

8.

Any and all notices to the Surety, the Contractor or the Owner shall be given by Certified Mail, Return Receipt Requested, to the address set forth for each party below:

SURETY:

CONTRACTOR:

OWNER:

9.

Any statutory limitation, which may be contractually superseded, to the contrary notwithstanding, any action hereon may be instituted so long as the applicable statute of limitations governing the Construction Contract has not run or expired.

CONTRACTOR:

SURETY:

SEAL
(INSERT PROPER NAME OF CONTRACTOR)

SEAL
(INSERT PROPER NAME OF SURETY)

By: _____
(SIGNATURE OF AUTHORIZED SIGNATORY)

By: _____
(SIGNATURE OF AUTHORIZED SIGNATORY)

(OFFICE OR TITLE OF PERSON SIGNING)

(OFFICE OR TITLE OF PERSON SIGNING)

NON-COLLUSION AFFIDAVIT OF CONTRACTOR

State of Texas

County of El Paso

_____, being first duly sworn, deposes and says that:

- (1) He/she is _____ of _____ hereinafter referred to as the "Contractor";
- (2) He is fully informed respecting the preparation and contents submitted _____, the Contractor for certain work in connection with the County of El Paso Contract pertaining to the Project in El Paso County, Texas;
- (3) This bid is genuine and is not a collusive or sham bid.
- (4) Neither the Subcontractor nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affidavit, has in any way colluded, conspired, connived, or agreed, directly or indirectly, with any other Bidder, firm or person to submit a collusive or sham bid in connection with such Contract or to refrain from submitting a bid in connection with such Contract, or has in any manner, with any other Bidder, firm or person to fix the price or prices in said Contractor's Bid, or to secure through collusion, conspiracy, connivance or unlawful agreement any advantage against the County of El Paso or any person interested in the proposed Contract: and
- (5) The prices quoted in the Contractor's bid are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Bidder or any of its agents, representatives, owners, employees or parties in interest, including this affidavit.

(Signature)

(Title)

Subscribed and sworn to before me this ___ day of _____, 20_____.

By: _____
(Notary Public)

My Commission Expires _____, 20_____

NON-COLLUSION AFFIDAVIT OF SUBCONTRACTOR

State of Texas (

County of El Paso (

_____, being first duly sworn, deposes and says that:

- (1) He/she is _____ of _____ hereinafter referred to as the "Subcontractor",
- (6) He is fully informed respecting the preparation and contents of the Subcontractor's Proposal submitted by the Subcontractor to _____, the Contractor for certain work in connection with the County of El Paso Contract pertaining to the Project in El Paso County, Texas;
- (7) Such Subcontractor's Proposal is genuine and is not a collusive or sham proposal.
- (8) Neither the Subcontractor nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affidavit, has in any way colluded, conspired, connived, or agreed, directly or indirectly, with any other Bidder, firm or person to submit a collusive or sham Proposal in connection with such Contract or to refrain from submitting a Proposal in connection with such Contract, or has in any manner, with any other Bidder, firm or person to fix the price or prices in said Subcontractor's Proposal, or to secure through collusion, conspiracy, connivance or unlawful agreement any advantage against the County of El Paso or any person interested in the proposed Contract: and
- (9) The prices quoted in the Subcontractor's Proposal are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Bidder or any of its agents, representatives, owners, employees or parties in interest, including this affidavit.

(Signature)

(Title)

Subscribed and sworn to before me this ___ day of _____, 20_____.

By: _____
(Notary Public)

My Commission Expires _____, 20_____

[standard form- will be modified to suit specific details of Bid Project]

CONTRACT BETWEEN OWNER AND CONTRACTOR

This FIXED PRICE CONSTRUCTION CONTRACT (the "Contract") is made and entered into by El Paso County, Texas, a political subdivision of the State of Texas (the "Owner") and **[CONTRACTOR NAME]** (the "Contractor"). This Contract is executed under seal, and shall be effective on the date the last party executed it.

This Contract is for the construction of a project identified as **[21-028b Paso Hills Channel Project for the County of El Paso]**

The parties agree:

1. DOCUMENTS INCORPORATED BY REFERENCE

This Contract includes the plans and specifications for the Project, plus the following:

- 1.1 A copy of County Bid **21-028** entitled “[**Paso Hills Channel Project for the County of El Paso**]” all Bid Addendums, insurance requirements, prevailing wages, apprenticeship order, and all technical specifications (if any) and appropriate excerpts (if any) from the Bid Response, attached as **Exhibit 1**;
- 1.2 Contractor’s Payment Bond, attached as **Exhibit 2**;
- 1.3 A copy of Contractor’s Performance Bond, attached as **Exhibit 3**; and
- 1.4 A copy of the Insurance Certificates, to be attached as **Exhibit 4**;
- 1.5 **NOTE: Some exhibits, for example Contractor’s Payment Bond (Exhibit 2), are provided in blank as examples. Contractor agrees to provide executed copies of blank exhibits as part of its performance under this Contract. Executed exhibits will then be incorporated into this Contract by reference. Contractor’s failure to provide executed exhibits is a failure of performance under this Contract. In addition, Contractor’s insurance certificates shall be attached as Exhibit 4 and incorporated by reference when available and prior to commencement of construction.** Change Orders issued hereafter, and any other amendments executed by the Owner and the Contractor, shall become and be a part of this Contract. Documents not included or expressly contemplated in this Section do not, and shall not, form any part of this Contract.

2. REPRESENTATIONS OF THE CONTRACTOR

The Contractor makes the following express representations to the Owner:

- 2.1 The Contractor is fully qualified to act as the contractor for the Project and has, and shall maintain, any and all licenses, permits or other authorizations necessary

to act as the contractor for, and to construct, the Project. This representation includes all subcontractors who perform services under this Contract.

- 2.2 The Contractor has become familiar with the Project site and the local conditions under which the Project is to be constructed and operated. This representation includes all subcontractors who perform services under this Contract.
- 2.3 The Contractor has received, reviewed and carefully examined all of the documents which make up this Contract, including (without limitation) the plans and specifications, and has found them in all respects to be complete, accurate, adequate, consistent, coordinated and sufficient for construction. This representation includes all subcontractors who perform services under this Contract.
- 2.4 The Contractor shall ensure that it has an adequate number of personnel, and the proper equipment to perform the scope of services required to complete the Project. Failure to do so constitutes a material breach of this Contract.
- 2.5 If performance of this Contract requires entry into the County courthouse, a facility controlled by the County sheriff (e.g. a detention center), or any other secure county facility, the Contractor shall ensure that all employees of the Contractor as well as all subcontractors of the Contractor pass a criminal background check prior to being allowed perform the scope of services required to complete the Project.

3. OWNERS REPRESENTATIVE, PROJECT MANAGER(S), & ENGINEERS.

- 3.1 Owner's Representative is the Director of Public Works, Ms. Norma Rivera Palacios or her successor in office. The Project Manager for this Contract is Fernando Hernandez. (A Project Manager or Engineer may be the same person.) **The Powers and duties of any "project manager" may be carried out by Owner's Representative, a Project Manager appointed by Owner, or an Engineer appointed by Owner.** The office and mailing address is 800 E. Overland, Room 200, El Paso, Texas. The phone number is 915.546.2015; facsimile is 915.546.8194. The Director of Public Works, or her successor, may replace any Project Manager or Engineer of Owner is at any time at her discretion and will provide reasonable written notice of such change to Contractor. The El Paso County Commissioners Court may replace Owner's Representative at any time and at its discretion. The Court will provide reasonable written notice of any such change to Contractor.
- 3.2 The duties, obligations, and responsibilities of the Project Manager shall include the following:
 - 3.2.1 Unless otherwise directed by the Owner in writing, the Project Manager shall act as the Owner's agent from the effective date of this Contract until final payment has been made, to the extent expressly set forth in this Contract.

- 3.2.2 Unless otherwise directed by the Owner in writing, the Owner and the Contractor shall communicate with each other in the first instance through the Project Manager.
- 3.2.3 When requested by the Contractor in writing, the Project Manager shall render interpretations necessary for the proper execution or progress of the work.
- 3.2.4 The Project Manager shall draft proposed Change Orders.
- 3.2.5 The Project Manager shall approve, or respond otherwise as necessary concerning shop drawings or other submittals received from the Contractor.
- 3.2.6 The Project Manager shall be authorized to refuse to accept work which is defective or otherwise fails to comply with the requirements of this Contract. If the Project Manager deems it appropriate, the Project Manager shall be authorized to call for extra inspection or testing of the work for compliance with the requirements of this Contract.
- 3.2.7 The Project Manager shall review the Contractor's Payment Requests and shall approve in writing those amounts which, in the opinion of the Project Manager, are properly owing to the Contractor as provided in this Contract.
- 3.2.8 The Project Manager shall, upon written request from the Contractor, perform those inspections required in this Contract (unless a statute requires that they be performed by an engineer).
- 3.2.9 The Project Manager shall be authorized to require the Contractor to make changes which do not involve a change in the Contract Price or in the time for the Contractor's performance of this Contract consistent with the intent of this Contract.
- 3.3 THE DUTIES, OBLIGATIONS AND RESPONSIBILITIES OF THE CONTRACTOR UNDER THIS CONTRACT SHALL NOT BE CHANGED, ALTERED, DISCHARGED, RELEASED, OR SATISFIED BY ANY DUTY, OBLIGATION OR RESPONSIBILITY OF THE PROJECT MANAGER (OR ENGINEER). THE CONTRACTOR IS NOT A THIRD-PARTY BENEFICIARY OF ANY CONTRACT BETWEEN THE OWNER AND THE PROJECT MANAGER (OR ENGINEER). THE PARTIES EXPRESSLY ACKNOWLEDGE AND AGREE THAT THE DUTIES OF THE CONTRACTOR TO THE OWNER ARE INDEPENDENT OF, AND ARE NOT DIMINISHED BY, ANY DUTIES OF THE PROJECT MANAGER (OR ENGINEER) TO THE OWNER.
- 3.4. From time to time, Owner may also appoint an engineer to manage the project by designating an engineer in writing. If the Owner should find it necessary or convenient to replace the Engineer, the Owner shall retain a replacement Engineer, and the role of the replacement Engineer shall be the same as the role of the Engineer. If Owner does not designate an engineer, then Owner's representative may fulfill the duties of the engineer to the extent permitted by law.

The Engineer (if any) shall have the following duties, obligations, and responsibilities (without limitation):

- 3.4.1 The engineer (if any) shall have all the powers and duties of a Project Manager under this Contract. The engineer shall also have all the powers and duties allocated to an engineer under any Texas statute as long as the exercise of those powers and duties is consistent with the Owner's purposes and interests under this Contract.
- 3.4.2 If a project manager is not a licensed engineer, project manager may not perform the duties of an engineer.
- 3.5 If a dispute arises as to the respective powers and duties of the Engineer and Project Manager, those disputes shall be resolved by the Owner, or Owner's Representative, in her (or its) discretion.

4. INTENT AND INTERPRETATION

With respect to the intent and interpretation of this Contract, the Owner and the Contractor agree as follows:

- 4.1 This Contract, together with exhibits constitutes the entire and exclusive agreement between the parties with reference to the Project. This Contract supersedes all prior discussions, communications, representations, understandings, negotiations, or agreements.
- 4.2 Anything that may be required, implied or inferred by the documents which make up this Contract, or any one or more of them, shall be provided by the Contractor for the Contract Price.
- 4.3 Nothing contained in this Contract shall create, nor be interpreted to create, privity or any other relationship whatsoever between the Owner and any person except the Contractor.
- 4.4 When a word, term, or phrase is used in this Contract, it shall be interpreted or construed first, as defined in this Contract; second, if not defined, according to its generally accepted meaning in the construction industry; and third, if there is no generally accepted meaning in the construction industry, according to its common and customary usage.
- 4.5 **THE WORDS "INCLUDE", "INCLUDES", OR "INCLUDING", AS USED IN THIS CONTRACT, SHALL BE DEEMED TO BE FOLLOWED BY THE PHRASE, "WITHOUT LIMITATION."**
- 4.6 The specification of any act, failure, refusal, omission, event, occurrence, or condition as constituting a material breach of this Contract shall not imply that any other (non-specified) act, failure, refusal, omission, event, occurrence, or condition is not a material breach of this Contract.

- 4.7 The Contractor shall have a continuing duty to read, examine, review, compare and contrast each of the documents which make up this Contract, shop drawings, and other submittals and shall give written notice to the Owner, Engineer (if any), and the Project Manager (if any) of any conflict, ambiguity, error or omission which the Contractor may find with respect to these documents before proceeding with the affected work. The express or implied approval by the Owner, the Project Manager, or Engineer (if any) of any shop drawings or other submittals shall not relieve the Contractor of the continuing duties imposed by this Contract, nor shall any such approval be evidence of the Contractor's compliance with this Contract. The Owner has requested the Project Manager to only prepare documents for the Project, including the plans and specifications for the Project, which are accurate, adequate, consistent, coordinated, and sufficient for construction. **HOWEVER, THE OWNER MAKES NO REPRESENTATION OR WARRANTY OF ANY NATURE WHATSOEVER TO THE CONTRACTOR CONCERNING SUCH DOCUMENTS.** The Contractor again hereby acknowledges and represents that it has received, reviewed and carefully examined such documents, has found them to be complete, accurate, adequate, consistent, coordinated and sufficient for construction, and that the Contractor has not, does not, and will not rely upon any representations or warranties by the Owner concerning such documents, as no such representations or warranties have been, are, or will be made.
- 4.8 In the event of any conflict, discrepancy, or inconsistency among any of the documents which make up this Contract, the following shall control:
- 4.8.1 As between figures given on plans and scaled measurements, the figures shall govern.
- 4.8.2 As between large-scale plans and small-scale plans, the large-scale plans shall govern.
- 4.8.3 As between plans and specifications, the requirements of the specifications shall govern.
- 4.8.4 As between this document and the plans or specifications, this document shall govern.

5. OWNERSHIP OF THE DOCUMENTS WHICH MAKE UP THE CONTRACT

- 5.1 The documents which make up this Contract, as well as any other documents furnished by the Owner, shall remain the property of the Owner. The Contractor shall have the right to keep one copy of the Contract upon completion of the Project. However, the Contractor may not use, or permit to be used, any portion of the documents which make up this Contract on other projects without the Owner's prior written authorization.

6. CONTRACTOR'S PERFORMANCE

- 6.1 The Contractor shall perform all of the work required, implied, or reasonably inferable from this Contract including the following:

- 6.1.1 Construction of the Project;
- 6.1.2 The furnishing of a performance and payment bond in the full amount of the Contract and insurance;
- 6.1.3 The provision or furnishing, and prompt payment therefore, of labor, supervision, services, materials, supplies, equipment, fixtures, appliances, facilities, tools, transportation, storage, power, fuel, heat, light, cooling, or other utilities, required for construction and all necessary building permits and other permits required for the construction of the Project. **CONTRACTOR SHALL LAWFULLY DISPOSE OF ALL CONSTRUCTION MATERIALS, CHEMICALS, AND DEBRIS AND SHALL INDEMNIFY AND HOLD OWNER HARMLESS FOR THE UNLAWFUL DISPOSAL OF ALL CONSTRUCTION MATERIALS, CHEMICALS, AND DEBRIS DONE BY CONTRACTOR OR ITS SUBCONTRACTOR IN FURTHERANCE OF THIS CONTRACT.**
- 6.1.4 The creation and submission to the Owner of detailed and comprehensive as-built drawings depicting all as-built construction. As-built drawings shall be submitted to the Owner upon final completion of the Project and receipt of same by the Owner shall be a condition precedent to final payment to the Contractor.

7. TIME FOR CONTRACTOR'S PERFORMANCE

- 7.1 The Contractor shall commence the performance of this Contract on the date authorized by Owner/Owner's Representative in a written Notice to Proceed and shall diligently continue its performance to and until final completion of the Project. The Contractor shall accomplish Substantial Completion of the Project on or before [21] consecutive calendar days from the receipt of the Notice to Proceed.
- 7.2 The Contractor shall pay the Owner the sum of \$500.00 per day for each and every calendar day of unexcused delay in achieving Substantial Completion beyond the date set forth in this Contract for Substantial Completion. Any sums due and payable under this Contract by the Contractor shall be payable, not as a penalty, but as liquidated damages representing an estimate of delay damages likely to be sustained by the Owner, estimated at the time of executing this Contract. **These liquidated damages are based on a reasonable estimate of owner's cost of delay and include the cost of [insert rational here].** When the Owner reasonably believes that Substantial Completion will be inexcusably delayed, the Owner shall be entitled, but not required, to withhold from any amounts otherwise due the Contractor an amount then believed by the Owner to be adequate to recover liquidated damages applicable to such delays. If and when the Contractor overcomes the delay in achieving Substantial Completion, or any part thereof, for which the Owner has withheld payment, the Owner shall promptly release to the Contractor those funds withheld, but no longer applicable, as liquidated damages.
- 7.3 **"Substantial Completion"** means that point at which, as certified in writing by the Project Manager, the Project is at a level of completion, in strict compliance with this Contract, such that the Owner or its designee can enjoy beneficial use or

occupancy and can use or operate it in all respects, for its intended purpose. Partial use or occupancy of the Project shall not result in the Project being deemed substantially complete, and such partial use or occupancy shall not be evidence of Substantial Completion.

- 7.4 When Substantial Completion has been achieved, the Contractor shall notify the Owner and the Project Manager in writing and shall furnish to the Project Manager a listing of those matters yet to be finished. The Project Manager will then conduct an inspection to confirm that the work is in fact substantially complete. Upon its confirmation that the Contractor's work is substantially complete, the Project Manager will so notify the Owner and Contractor in writing and note the date of Substantial Completion. If the Project Manager, through its inspection, fails to find that the Contractor's work is substantially complete, and is required to repeat all, or any portion, of its Substantial Completion inspection, the Contractor shall bear the cost of such repeat inspection(s) which cost may be deducted by the Owner from any payment then or thereafter due to the Contractor. Guarantees and equipment warranties required by this Contract shall commence on the date of Substantial Completion. Upon Substantial Completion, the Owner shall pay the Contractor an amount sufficient to increase total payments to the Contractor to 100% of the Contract Price. Owner may, however, deduct any amounts attributable to liquidated damages and 100% of the reasonable costs, as determined by the Owner, for completing all incomplete work, correcting and bringing into conformance all defective and nonconforming work, and handling any outstanding or threatened claims.
- 7.5 When the Project is **finally complete** and the Contractor is ready for a final inspection, it shall notify the Owner and the Project Manager in writing. The Project Manager will perform a final inspection of the Project. If the Project Manager confirms that the Project is complete in full accordance with this Contract and that the Contractor has performed all of its obligations to the Owner under this Contract, the Project Manager will furnish a final Approval for Payment to the Owner certifying to the Owner that the Project is complete and the Contractor is entitled to the remainder of the unpaid Contract Price, less any amount withheld under to this Contract. If the Project Manager is unable to issue its final Approval for Payment and is required to repeat its final inspection of the Project, the Contractor shall bear the cost of such repeat inspection(s), which costs may be deducted by the Owner from the Contractor's final payment.
- 7.6 If the Contractor fails to achieve final completion within **75** days of the date of Substantial Completion, the Contractor shall pay the Owner the sum of \$500.00 per day for each and every calendar day of unexcused delay in achieving final completion beyond the date set for final completion of the work. Any sums due and payable by the Contractor shall be payable, not as a penalty, but as liquidated damages representing an estimate of delay damages likely to be sustained by the Owner, estimated at or before the time of executing this Contract. These liquidated damages are based on a reasonable estimate of owner's cost of delay and include the cost of **[insert rationale here]**. When the Owner reasonably believes that final completion will be inexcusably delayed, the Owner shall be entitled, but not required, to withhold from any amounts otherwise due the Contractor an amount then believed by the Owner to be adequate to recover liquidated damages

applicable to such delays. If the Contractor overcomes the delay in achieving final completion (or any part thereof) for which the Owner has withheld payment, the Owner shall promptly release to the Contractor those funds withheld, but no longer applicable, as liquidated damages.

- 7.7 **All limitations of time in this Contract are material and are of the essence of this Contract.**

8. PRICE AND CONTRACT PAYMENTS

- 8.1 The Owner shall pay, and the Contractor shall accept, as full and complete payment for the Contractor's timely performance of its obligations under this Contract the fixed price \$XXXXX.XX. This fixed price constitutes the Contract Price, which shall not be modified except by Change Order as provided in this Contract.
- 8.2 Prior to beginning construction, the contractor shall provide a Schedule of Values to the Project Manager which shall be adhered to by Contractor. The Schedule of Values shall apportion the Contract Price among the different elements of the Project for purposes of partial payments. The violation of this provision by the Contractor shall constitute a material breach of this Contract. The Project Manager's Schedule of Values will be utilized for the Contractor's Payment Requests but shall only be so utilized after it has been acknowledged in writing by the Project Manager and the Owner.
- 8.3 The Owner shall pay the Contract Price to the Contractor in accordance with the procedures set forth in this Paragraph. After the commencement of performance, the Contractor may submit a payment request for that portion of the work which has been completed, subject to the retainage described below. Contractor may submit subsequent payment requests no more often than once per 30 calendar days. A payment request shall be in such format and include whatever supporting information as may be required by the Project Manager. In any payment request, the Contractor may request payment for **95%** of that part of work that is complete, less the total amount of previous payments received from the Owner. Any payment on account of stored materials or equipment will be subject to the Contractor providing written proof that the Owner has title to such materials or equipment and that they are fully insured against loss or damage. Each such Payment Request shall be signed by the Contractor and shall constitute the Contractor's representation: that the quantity of work has reached the level for which payment is requested; that the work has been properly installed or performed in strict compliance with this Contract; and, that the Contractor knows of no reason why payment should not be made as requested. Thereafter, the Project Manager shall review the Payment Request and may also review the work at the Project site or elsewhere to determine whether the quantity and quality of the work is as represented in the Payment Request and is as required by this Contract. The Project Manager shall approve in writing the amount which, in the opinion of the Project Manager, is properly owing to the Contractor. **The Owner shall make payment to the Contractor within 30 days following the Project Manager's written approval of each Payment Request.** The amount of each such payment shall be the amount approved for payment by the Project Manager less such

amounts, if any, otherwise owing by the Contractor to the Owner or which the Owner shall have the right to withhold as authorized by this Contract. The Project Manager's approval of the Contractor's Payment Requests shall not preclude the Owner from the exercise of any of its rights as set forth in this Contract. The submission by the Contractor of a Payment Request also constitutes an affirmative representation and warranty that all work for which the Owner has previously paid is free and clear of any lien, claim, or other encumbrance of any person whatsoever. As a condition precedent to payment, the Contractor shall, if required by the Owner, also furnish to the Owner properly executed waivers of lien, in a form acceptable to the Owner, from all subcontractors, materialmen, suppliers or others having lien rights. The waiver shall acknowledge receipt of all sums due under all prior Payment Requests and waive and relinquish any liens, lien rights or other claims relating to the Project site. Furthermore, the Contractor warrants and represents that, upon payment of the Payment Request submitted, title to all work included in such payment shall be vested in the Owner.

- 8.4 When payment is received from the Owner, the Contractor shall immediately pay all subcontractors, materialmen, laborers, and suppliers the amounts they are due for the work covered by such payment. If the Owner becomes informed that the Contractor has not paid a subcontractor, materialman, laborer, or supplier as provided in this Contract, the Owner shall have the right (but not the duty) to: (1) issue future payment checks to the Contractor that name the Contractor and any such subcontractor, materialman, laborer, or supplier as joint payees; or (2) make direct payments to any unpaid subcontractor, materialmen, laborers, or suppliers that are due for performance of the Contract and make appropriate deductions from future payments to Contractor. If utilized by Owner, these remedies shall create no rights in favor of any person or entity beyond the right of the named payees to payment of the check and shall not be deemed to commit the Owner to repeat the procedure in the future.
- 8.5 Neither payment to the Contractor, utilization of the Project for any purpose by the Owner, nor any other act or omission by the Owner shall be interpreted or construed as an acceptance of any work of the Contractor not strictly in compliance with this Contract.
- 8.6 The Owner shall have the right to refuse to make payment and, if necessary, may demand the return of a portion of or the entire amount previously paid to the Contractor due to:
- 8.6.1 The quality of a portion, or all, of the Contractor's work not being in accordance with the requirements of this Contract;
- 8.6.2 The quantity of the Contractor's work not being as represented in the Contractor's Payment Request, or otherwise;
- 8.6.3 The Contractor's rate of progress being such that, in the Owner's opinion, Substantial Completion or final completion, or both, may be inexcusably delayed;

- 8.6.4 The Contractor's failure to use Contract funds, previously paid the Contractor by the Owner, to pay Contractor's Project-related obligations including, but not limited to, subcontractors, laborers and material and equipment suppliers;
- 8.6.5 Claims made, or likely to be made, against the Owner or its property;
- 8.6.6 Loss caused by the Contractor; or,
- 8.6.7 The Contractor's failure or refusal to perform any of its obligations to the Owner.
- 8.6.8 If the Owner makes written demand upon the Contractor for amounts previously paid by the Owner as contemplated in this section, the Contractor shall promptly comply with such demand;
- 8.7 If within **30** days from the date payment to the Contractor is due, the Owner, without cause, fails to pay the Contractor any amounts then due and payable to the Contractor, the Contractor shall have the right to cease work until receipt of proper payment after first providing **30** days' written notice of its intent to cease work to the Owner. **Any payment not made within 30 days after the date due shall bear interest at rates provided under the Texas Prompt Pay Act, Tex. Gov't Code Ch. 2251.**
- 8.8 Prior to being entitled to receive final payment and as a condition precedent to final payment, the Contractor shall furnish the Owner, in the form and manner required by Owner, if any, with a copy to the Project Manager:
 - 8.8.1 An affidavit that all of the Contractor's obligations to subcontractors, laborers, equipment or material suppliers, or other third parties in connection with the Project, have been paid or otherwise satisfied;
 - 8.8.2 If required by the Owner, separate releases of lien or lien waivers from each subcontractor, lower tier subcontractor, laborer, supplier or other person or entity who has, or might have a claim against the Owner or the Owner's property;
 - 8.8.3 If applicable, consent(s) of surety to final payment;
 - 8.8.4 All product warranties, operating manuals, instruction manuals and other record documents, drawings and things customarily required of the Contractor, or expressly required in this Contract, as a part of or prior to Project closeout;
- 8.9 The Owner shall, subject to its rights set forth in this Contract, make final payment of all sums due the Contractor within **10** days of the Project Manager's execution of a final Approval for Payment.

9. INFORMATION AND MATERIAL SUPPLIED BY THE OWNER

- 9.1 Contractor shall be responsible for obtaining any and all written and tangible material concerning conditions below ground at the site of the Project. Owner shall cooperate to assist (upon request) Contractor with obtaining such material concerning below ground conditions at the project site. If such materials are furnished to the Contractor by the owner, they are only furnished to make complete disclosure of such material as being in the possession of the Owner and for no other purpose. By furnishing such material, the Owner does not represent, warrant, or guarantee its accuracy either in whole, in part, implicitly or explicitly, or at all, and shall have no liability therefore. The Owner shall also furnish, if appropriate, the legal description of the Project site, and any required survey;
- 9.2 The Contractor shall obtain all required permits, authorizations, approvals, easements, and the like.
- 9.3 The Owner will provide the Contractor one electronic copy of the complete Contract. The Contractor will be charged, and shall pay the Owner, a reasonable fee per paper copy of the Contract.

10. CEASE AND DESIST ORDER

- 10.1 If the Contractor fails or refuses to perform the work as required under this Contract, the Owner may instruct the Contractor to cease and desist from performing further work in whole or in part. Upon receipt of such instruction, the Contractor shall immediately cease and desist as instructed by the Owner and shall not proceed further until the cause for the Owner's instructions has been corrected, no longer exists, or the Owner instructs that the work may resume. If the Owner issues such instructions to cease and desist, and if the Contractor fails and refuses, within **seven** days of receipt of same, to provide adequate assurance to the Owner that the cause of such instructions will be eliminated or corrected, then the Owner shall have the right, but not the obligation, to carry out the work with its own forces, or with the forces of another contractor, and the Contractor shall be fully responsible and liable for the costs of performing such work by the Owner. The rights set forth this paragraph are in addition to, and without prejudice to, any other rights or remedies the Owner may have against the Contractor.

11. DUTIES, OBLIGATIONS, AND RESPONSIBILITIES OF THE CONTRACTOR

- 11.1 In addition to any and all other duties, obligations and responsibilities of the Contractor set forth in this Contract, the Contractor shall have and perform the following duties, obligations, and responsibilities:
- 11.1.1 The Contractor shall not perform work without adequate plans and specifications, or, as appropriate, approved shop drawings, or other submittals. If the Contractor performs work knowing or believing it involves an error, inconsistency or omission in the Contract without first providing written notice to the Project Manager and Owner, the Contractor shall be responsible for such work and pay the cost of correcting same.

- 11.1.2 All work shall strictly conform to the requirements of this Contract.
- 11.1.3 The work shall be strictly supervised, the Contractor bearing full responsibility for any and all acts or omissions of those engaged in the work on behalf of the Contractor.
- 11.1.4 The Contractor warrants that all labor furnished under this Contract shall be competent to perform the tasks undertaken; that the product of such labor shall yield only first-class results; that all materials and equipment provided shall be new and of high quality; and that the completed work will be of high quality, without defects, and that all work strictly complies with the requirements of this Contract. Any work not strictly complying with the requirements of this Section constitutes a breach of the Contractor's warranty.
- 11.1.5 The Contractor shall obtain and pay for all required permits, fees, and licenses customarily obtained by the Contractor. The Contractor shall comply with all legal requirements applicable to the work. **CONTRACTOR SHALL LAWFULLY DISPOSE OF ALL CONSTRUCTION MATERIALS, CHEMICALS, AND DEBRIS AND SHALL INDEMNIFY AND HOLD OWNER HARMLESS FOR THE UNLAWFUL DISPOSAL OF ALL CONSTRUCTION MATERIALS, CHEMICALS, AND DEBRIS DONE BY CONTRACTOR OR ITS SUBCONTRACTOR(S) IN FURTHERANCE OF THIS CONTRACT.**
- 11.1.6 The Contractor shall comply with, the schedule (as prepared by Contractor, and approved by Owner) for completing the work. The schedule shall be updated no less frequently than monthly (unless the parties otherwise agree in writing) and shall be updated to reflect conditions encountered from time to time and shall apply to the total Project. Each such revision shall be furnished to the Owner by the Contractor. Strict compliance with the requirements of this Section shall be a condition precedent to payment to the Contractor, and failure by the Contractor to strictly comply with these requirements shall constitute a material breach of this Contract.
- 11.1.7 The Contractor shall keep an updated copy of this Contract at the site. Additionally, the Contractor shall keep a copy of approved shop drawings and other submittals. All of these items shall be available to the Owner and the Project Manager at all regular business hours. Upon final completion of the work, all of these items shall be finally updated and provided to the Owner and shall become the property of the Owner.
- 11.1.8 Shop drawings and other submittals from the Contractor do not constitute a part of the Contract. The Contractor shall not do any work requiring shop drawings or other submittals unless such shall have been approved in writing by the Project Manager. All work requiring approved shop drawings or other submittals shall be done in strict compliance with such approved documents. However, approval by the Project Manager or the Owner shall not be evidence that work installed under shop drawings or submittals

conforms to the requirements of this Contract. The Owner and the Project Manager shall have no duty to review partial submittals or incomplete submittals. The Contractor shall maintain a submittal log which shall include, at a minimum, the date of each submittal, the date of any resubmittal, the date of any approval or rejection, and the reason for any approval or rejection. The Contractor shall have the duty to carefully review, inspect, and examine all submittals before submission of same to the Owner or the Project Manager.

11.1.9 The Contractor shall maintain the Project site in a reasonably clean condition during performance of the work. Upon final completion, the Contractor shall thoroughly clean the Project site of all debris, trash and excess materials or equipment.

11.1.10 At all times relevant to this Contract, the Contractor shall permit the Owner and the Project Manager to enter upon the Project site and to review or inspect the work without formality or other procedure.

12. INDEMNITY

12.1 THE CONTRACTOR SHALL INDEMNIFY AND HOLD THE OWNER FROM ANY AND ALL CLAIMS, LIABILITY, DAMAGES, LOSSES, COSTS AND EXPENSES OF EVERY TYPE ARISING FROM CONTRACTOR'S PERFORMANCE OF THIS CONTRACT. THE PARTIES AGREE THAT THIS INDEMNITY WILL BE INTERPRETED BROADLY. THIS INDEMNITY INCLUDES (WITHOUT LIMITATION) ATTORNEYS' FEES AND EXPENSES, LIABILITY, DAMAGE, LOSSES, COSTS OR EXPENSES DUE (WITHOUT LIMITATION) TO SICKNESS, PERSONAL INJURY, DISEASE OR DEATH, AND/OR THE UNLAWFUL DISPOSAL OF CONSTRUCTION MATERIALS, CHEMICALS, OR DEBRIS. THIS INDEMNITY ALSO INCLUDES (WITHOUT LIMITATION) LOSS OR DESTRUCTION OF TANGIBLE PROPERTY, INCLUDING LOSS OF USE RESULTING THEREFROM. THIS INDEMNITY APPLIES WHETHER IT STEMS FROM ACTIONS OF THE CONTRACTOR OR ANYONE FOR WHOSE ACTS THE CONTRACTOR MAY BE LIABLE, REGARDLESS OF WHETHER SUCH LIABILITY, CLAIM, DAMAGE, LOSSES, COSTS, OR EXPENSE IS CAUSED IN PART BY THE OWNER.

13. MISCELLANEOUS TERMS

13.1 Owner is a tax-exempt political subdivision of the State of Texas. Owner shall not be liable for any taxes from which it is exempt. Owner's Tax Identification Number is 746000762.

13.2 Nothing in any of the terms and conditions which comprise the Contract modifies or waives any governmental or official immunity or limitation of liability enjoyed by Owner, its elected officials, or employees at common law or under other Texas law. **Any indemnity or hold harmless provisions imposed on Owner in any of the Contractor's terms and conditions are deleted and invalid.** The Parties understand and agree that neither a tax nor interest and sinking fund has been set,

adopted, or established for the payment of any such obligation as to Owner under this Contract.

- 13.3 The Parties understand and acknowledge Owner is subject to the Texas Open Meetings Act and Public Information Act, Chapters 551 and 552 of the Texas Government Code, respectively, which may require the disclosure of information despite any confidentiality, proprietary, or other provisions to the contrary in the Contract terms and conditions between the parties.
- 13.4 For any and all disputes arising out of the Contract, both parties retain all rights and remedies available to them under Federal and State law.
- 13.5 The Contract terms and conditions may not be amended or modified except in writing and executed by both parties to the Contract and authorized by their respective governing bodies.
- 13.6 If applicable, pursuant to Texas Government Code Section 2271.002, Contractor verifies it does not boycott Israel and will not boycott Israel as defined in Section 2271.001(1), for the duration of the Contract.

14. CLAIMS BY THE CONTRACTOR

Claims by the Contractor against the Owner are subject to the following:

- 14.1 All Contractor claims against the Owner shall be initiated by a written claim submitted to the Owner and the Project Manager. Such claim shall be received by the Owner and the Project Manager no later than **7** calendar days after the event, or the first appearance of the circumstances, causing the claim. The written claim must detail all known facts and circumstances supporting the claim.
- 14.2 The Contractor and the Owner shall continue their performance regardless of the existence of any claims submitted by the Contractor.
- 14.3 If the Contractor discovers previously concealed and unknown site conditions which are materially at variance from those typically and ordinarily encountered in the general geographical location of the Project, the Contract Price shall be modified, either upward or downward, upon the written claim made by either party within **10** calendar days after the first appearance to such party of the circumstances. As a condition precedent to the Owner having any liability to the Contractor due to concealed and unknown conditions, the Contractor must give the Owner and the Project Manager written notice of, and an opportunity to observe, such condition prior to disturbing it. The failure by the Contractor to give the written notice and make the claim as provided by this Section shall constitute a waiver by the Contractor of any rights arising out of or relating to such concealed and unknown condition.
- 14.4 If the Contractor seeks to make a claim for an increase in the Contract Price, as a condition precedent to any liability of the Owner, the Contractor shall strictly comply with the notice requirements above and such claim shall be made by the Contractor before proceeding to execute any additional or changed work. Failure

of the condition precedent to occur shall constitute a waiver by the Contractor of any claim for additional compensation.

- 14.5 In connection with any claim by the Contractor against the Owner for compensation in excess of the Contract Price, any liability of the Owner for the Contractor's cost shall be strictly limited to direct cost incurred by the Contractor and shall not include indirect cost or consequential damages of the Contractor. The Owner shall not be liable to the Contractor for claims of third-parties including subcontractors, unless and until liability of the Contractor has been established therefore in a court of competent jurisdiction and subject to Owner's Indemnity protection under this Contract.
- 14.6 If the Contractor is delayed in performing any task which at the time of the delay is then critical (or which during the delay becomes critical) as the sole result of any act or omission by the Owner or someone acting in the Owner's behalf; by Owner-authorized Change Orders; by unusually bad weather not reasonably anticipatable; or by fire or other Acts of God, then the date for achieving Substantial Completion, or, (as applicable) final completion, shall be appropriately adjusted by the Owner upon the written claim of the Contractor to the Owner and the Project Manager. A task is critical within the meaning of this Section if, and only if, the task is on the critical path of the Project schedule so that a delay in performing such task will delay the ultimate completion of the Project. Any claim for an extension of time by the Contractor shall strictly comply with the notice requirements above. If the Contractor fails to make such claim as required in this Section, any claim for an extension of time shall be waived.

15. SUBCONTRACTORS

- 15.1 Upon execution of this Contract, the Contractor shall identify to the Owner and the Project Manager, in writing, those parties intended as subcontractors on the Project. The Owner shall, in writing, state any objections the Owner may have to one or more of such subcontractors. The Contractor shall not enter into a subcontract with an intended subcontractor with reference to whom the Owner objects. All subcontracts shall afford the Contractor rights against the subcontractor which correspond to those rights afforded to the Owner against the Contractor in this Contract, including those rights of contract termination as set forth in this Contract.

16. CHANGE ORDERS

- 16.1 One or more changes to the work within the general scope of this Contract may be ordered by Change Order. The Contractor shall proceed with any such changes, and same shall be accomplished in strict accordance with the following terms and conditions:
- 16.1.1 "Change Order" shall mean a written order to the Contractor executed by the Owner and the Project Manager after execution of this Contract, directing a change in the work and may include a change in the Contract Price or the time for the Contractor's performance, or any combination thereof.

16.1.2 Any change in the Contract Price resulting from a Change Order shall be determined as follows:

16.1.2.1 By mutual agreement between the Owner and the Contractor as evidenced by the change in the Contract Price being set forth in the Change Order and executed by the Parties, or,

16.1.2.2 If no mutual agreement occurs between the Owner and the Contractor, the change in the Contract Price, if any, shall be derived by determining the reasonable actual costs incurred or savings achieved, resulting from revisions in the work. Such reasonable actual costs or savings shall include a component for direct jobsite overhead and profit but may not include home-office overhead or other indirect costs or components. Any such costs or savings shall be documented in the format and with such content and detail as the Owner or the Project Manager requires.

16.2 The execution of a Change Order by the Contractor shall constitute conclusive evidence of the Contractor's agreement to the ordered changes in the work; this Contract as thus amended; and the Contract Price and the time for performance by the Contractor. The Contractor, by executing the Change Order, waives and forever releases any claim against the Owner for additional time or compensation for matters relating to or arising out of or resulting from the work included within, or affected by, the executed Change Order.

16.3 The Contractor shall notify and obtain the consent and approval of the Contractor's surety with reference to all Change Orders if such notice, consent, or approval is required by the Owner, the Project Manager, the Contractor's surety, or by law. The Contractor's execution of the Change Order shall constitute the Contractor's warranty to the Owner that the surety has been notified of, and consents to, such Change Order and the surety shall be conclusively deemed to have been notified of such Change Order and to have expressly consented thereto.

17. DISCOVERING AND CORRECTING DEFECTIVE OR INCOMPLETE WORK

17.1 If the Contractor covers, conceals or obscures its work in violation of this Contract or in violation of a directive from the Owner or the Project Manager, such work shall be uncovered and displayed for the Owner's or Project Manager's inspection upon request, and shall be reworked at no cost in time or money to the Owner.

17.2 If any of the work is covered, concealed or obscured in a manner not covered by the paragraph above, it shall, if directed by the Owner or the Project Manager, be uncovered and displayed for the Owner's or Project Manager's inspection. If the uncovered work conforms strictly to this Contract, the costs incurred by the Contractor to uncover and subsequently replace such work shall be borne by the Owner. Otherwise, such costs shall be borne by the Contractor.

17.3 The Contractor shall, at no cost in time or money to the Owner, correct work rejected by the Owner or by the Project Manager as defective or failing to conform

to this Contract. Additionally, the Contractor shall reimburse the Owner for all testing, inspections, and other expenses incurred as a result of the rejected work.

- 17.4 In addition to its warranty obligations set forth elsewhere in this Contract, the Contractor shall be specifically obligated to correct all defective or nonconforming work for a period of **12 months** following final completion upon written direction from the Owner.
- 17.5 The Owner may, but shall not be required to, choose to accept defective or nonconforming work. In such event, the Contract Price shall be reduced by the greater of (1) the reasonable costs of removing and correcting the defective or nonconforming work, and (2) the difference between the fair market value of the Project as constructed and the fair market value of the Project had it not been constructed in such a manner as to include defective or nonconforming work. If the remaining portion of the unpaid Contract Price, if any, is insufficient to compensate the Owner for the acceptance of defective or nonconforming work, the Contractor shall, upon written demand from the Owner, pay the Owner such remaining compensation for accepting defective or nonconforming work.

18. TERMINATION BY THE CONTRACTOR

- 18.1 If the Owner repeatedly fails to perform its material obligations to the Contractor for a period of **30** days after receiving written notice from the Contractor of its intent to terminate, the Contractor may terminate performance under this Contract by written notice to the Owner and the Project Manager. In such event, the Contractor shall be entitled to recover from the Owner as though the Owner had terminated the Contractor's performance under this Contract for convenience.

19. OWNER'S RIGHT TO SUSPEND CONTRACTOR'S PERFORMANCE

- 19.1 The Owner shall have the right at any time to direct the Contractor to suspend its performance, or any designated part thereof, for any reason whatsoever, or without reason, for a cumulative period of up to **3** calendar days. If any such suspension is directed by the Owner, the Contractor shall immediately comply.
- 19.2 In the event the Owner directs a suspension of performance under this Paragraph, through no fault of the Contractor, the Owner shall pay the Contractor as full compensation for such suspension the Contractor's reasonable costs, actually incurred and paid, of:
- 19.2.1 Demobilization and remobilization, including such costs paid to subcontractors;
- 19.2.2 Preserving and protecting work in place;
- 19.2.3 Storage of materials or equipment purchased for the Project, including insurance; and,
- 19.2.4 Performing in a later, or during a longer time frame than that contemplated by this Contract.

20. TERMINATION BY THE OWNER

20.1 The Owner may, for any reason whatsoever, terminate performance under this Contract by the Contractor for convenience. The Owner shall give written notice of such termination to the Contractor specifying when termination becomes effective. The Contractor shall incur no further obligations in connection with the work and the Contractor shall stop work when such termination becomes effective. The Contractor shall also terminate outstanding orders and subcontracts. The Contractor shall settle the liabilities and claims arising out of the termination of subcontracts and orders. The Owner may direct the Contractor to assign the Contractor's right, title, and interest under termination orders or subcontracts to the Owner or its designee. The Contractor shall transfer title and deliver to the Owner such completed or partially completed work and materials, equipment, parts, fixtures, information and Contract rights as the Contractor has. When terminated for convenience, the Contractor shall be compensated as follows:

20.1.1 The Owner and the Contractor may agree to the compensation, if any, due to the Contractor under this paragraph;

20.1.2 The Contractor shall submit a termination claim to the Owner and the Project Manager specifying the amounts due because of the termination for convenience together with costs, pricing or other data required by the Owner or the Project Manager. If the Contractor fails to file a termination claim within 1 year from the effective date of termination, the Owner shall pay the Contractor, an amount derived in accordance with the next subsection:

20.1.3 Absent agreement to the amount due to the Contractor, the Owner shall pay the Contractor the following amounts:

20.1.3.1 Contract prices for labor, materials, equipment, and other services accepted under this Contract;

20.1.3.2 Reasonable costs incurred in preparing to perform and in performing the terminated portion of the work, and in terminating the Contractor's performance, plus a fair and reasonable allowance for direct jobsite overhead and profit thereon (such profit shall not include anticipated profit or consequential damages). However, if it appears that the Contractor would have not profited or would have sustained a loss if the entire Contract would have been completed, no profit shall be allowed or included and the amount of compensation shall be reduced to reflect the anticipated rate of loss, if any; and,

20.1.3.3 Reasonable costs of settling and paying claims arising out of the termination of subcontracts or orders under this Section. These costs shall not include amounts paid in accordance with other provisions of this Contract.

20.1.4 The total sum to be paid the Contractor under this Section shall not exceed the total Contract Price, as properly adjusted, reduced by the amount of payments otherwise made, and shall in no event include duplication of payment.

20.2 If the Contractor does not perform the work in a timely manner; supply adequate labor, supervisory personnel or proper equipment or materials; timely discharge its obligations for labor, equipment and materials; proceeds to disobey applicable law; or otherwise commits a violation of a material provision of this Contract, then the Owner (in addition to any other rights it may have against the Contractor or others) may terminate the performance of the Contractor and assume possession of the Project site and of all materials and equipment at the site and may complete the work. In such case, the Contractor shall not be paid further until the work is complete. After final completion has been achieved, if any portion of the Contract Price, as it may be modified under this Contract, remains after all costs to the Owner of completing the work have been deducted by the Owner, such remainder shall belong to the Contractor. Otherwise, the Contractor shall pay and make whole the Owner for such costs. This obligation for payment shall survive the termination of the Contract. If the employment of the Contractor is terminated by the Owner for cause under to this Contract, and it is subsequently determined by a Court of competent jurisdiction that such termination was without cause, such termination shall be deemed a Termination for Convenience under this Contract.

21. INSURANCE

21.1 The Contractor shall have and maintain insurance under the requirements stated in the bid attached and incorporated by reference.

22. SURETY BONDS

22.1 The Contractor shall furnish separate performance and payment bonds to the Owner prior to commencement of the Project. Each bond shall set forth a penal sum in an amount not less than the Contract Price. Each bond furnished by the Contractor shall incorporate by reference the terms of this Contract as fully as though they were set forth verbatim in such bonds. In the event the Contract Price is adjusted by Change Order executed by the Contractor, the penal sum of both the performance bond and the payment bond shall be deemed increased by like amount. The performance and payment bonds furnished by the Contractor shall be in a form suitable to the Owner and shall be executed by a surety, or sureties, reasonably acceptable to the Owner.

23. PROJECT RECORDS

23.1 All documents relating to the Project, or any designated portion of the Project, which are in the possession of the Contractor, or any subcontractor, shall be made available to the Owner or the Project Manager for inspection and copying upon written request by the Owner. Furthermore, these documents shall be made available, upon request by the Owner, to any state, federal or other regulatory authority and any such authority may review, inspect, and copy such records.

These records include, all drawings, plans, specifications, submittals, correspondence, minutes, memoranda, audio recordings, videos, and all other writings or things which document the Project, its design, and construction. These records expressly include those documents reflecting the cost of construction to the Contractor. The Contractor shall maintain and protect these documents for at least 4 years after final completion of the Project, or for any longer period of time as may be required by law or good construction practice.

24. APPLICABLE LAW

- 24.1 The law applicable to this Contract is agreed to be the law of the State of Texas and venue in any dispute shall lie exclusively in El Paso County.

25. SUCCESSORS AND ASSIGNS

- 25.1 Each party binds itself, its successors, assigns, executors, administrators or other representatives to all terms and conditions of this Contract. The Contractor shall not assign this Contract without prior written consent of the Owner.

26. PREVAILING WAGE RATES AND APPRENTICESHIP PROGRAM

- 26.1 The Contractor is aware that and hereby agrees that not less than the prevailing wage rates included in the bid specifications, which have been adopted by the El Paso County Commissioners Court for Highway/Heavy Construction and for Building Construction Trades, shall be paid to all workers on the Project. Further, if this project is funded by federal funds, the applicable rates under the Davis Bacon Act shall be paid if they exceed the prevailing wage rates. If it is unclear whether this project is funded (in whole or in part) by federal money, it is the Contractor's responsibility to ascertain and clarify whether this project is funded by federal money. Owner's failure to explicitly disclose the use of federal money shall not relieve Contractor of its responsibilities under the Davis Bacon Act or the Texas Government Code. A copy of the prevailing wage rates is attached as part of **Exhibit 1** and incorporated as part of this Contract.
- 26.2 Contractor agrees to comply with Tex. Gov't Code Sections 2258.001 through 2258.058 and acknowledges that it understands that it will pay to the Owner the sum of \$60.00 per day or part of a day, per worker, that a worker is paid less than the prevailing wage rates described in this Contract.
- 26.3 The Contractor agrees to keep records showing the name and occupation of each worker employed by the Contractor or subcontractor in the construction of the public work and the actual per diem wages paid to each worker. The Contractor further agrees that such records shall be open at all reasonable hours to inspection by the County (Owner) through its officers and agents.
- 26.4 Throughout the duration of the project, the Contractor shall post the prevailing wage rate schedules at each work site in a prominent location readily accessible to the workers. In addition, the Contractor shall post a notice to be provided by the County Director of Public Works regarding Prevailing Wage Rates and the County

Apprenticeship Program, in English and Spanish, which shall be posted nearby the prevailing wage rate schedules.

- 26.5 Upon a determination by the County (Owner) that there is good cause to believe that Contractor or a subcontractor has violated Chapter 2258 of the Texas Government Code, the County may withhold any amount due under this Contract, up to and including the entire contract price, which the Commissioners Court or its agent, in the exercise of reasonable discretion, determines is sufficient to: 1) cover the costs to pay the worker the difference between the amount the worker received in wages for labor on the public work at the rate paid by the Contractor or subcontractor and the amount the worker would have received at the prevailing wage rate; 2) cover the costs of penalties under Section 2258.023; and, 3) ensure compliance with Chapter 2258 for the duration of the project.
- 26.6 **At the time the Contractor submits its applications for progress payments to the Project Manager, the Contractor shall provide a certified payroll for all employees during the period of that pay request.**
- 26.7 No worker shall be discharged by the Contractor or any Subcontractor or in any other manner discriminated against because such worker has filed an inquiry or complaint or instituted, or caused to be instituted, any legal or equitable proceeding or has testified, or is about to testify, in any such proceeding under or relating to the prevailing wage rate laws, the apprenticeship program, or the provisions of this Contract.
- 26.8 The Contractor and subcontractors shall allow expeditious jobsite entry by the County Director of Public Works and her agents and representatives displaying and presenting proper identification credentials to the jobsite superintendent or her representative. While on the jobsite, the County Director of Public Works and her agents and representatives shall observe all jobsite rules and regulations concerning safety, internal security, and fire prevention. The Contractor and subcontractors shall allow the County Director of Public works to interview project employees at random to facilitate compliance determinations regarding the prevailing wage rate payment provisions and apprenticeship program provisions of this Contract.
- 26.9 In the event a particular work element of the project calls for a certain employee classification and skill that is not listed in the prevailing wage rate schedules in the Contract, the Contractor shall notify the Executive Director of Public Works who shall investigate the matter and make a recommendation to the Commissioners Court to make a special wage rate determination as required.
- 26.10 In accordance with the Order of the Commissioners Court of El Paso County Regarding Apprenticeship Program Requirements adopted on June 23, 2008, the Contractor and all subcontractors must:
- 26.10.1 Sponsor or participate in a DOL certified apprenticeship program for all job classifications utilized on the project and which are “apprenticeable occupations” as defined by DOL regulations;

- 26.10.2 Hire registered apprentices enrolled in a DOL certified apprenticeship program. **No helpers are permitted;**
 - 26.10.3 **Not substitute helpers or unregistered apprentices to perform apprentice level work in place of registered apprentices;**
 - 26.10.4 Pay wage rates and benefits package for apprentices as determined by the apprenticeship program/DOL;
 - 26.10.5 Comply with DOL requirements for the ratio of apprentices to journeymen;
 - 26.10.6 **Hire apprentices in all job classifications utilized on the project and which are “apprenticeable occupations” as defined by DOL regulations, unless such placement would not be approved by the apprenticeship program.**
- 26.11 The Contractor shall provide the names of all apprentices on the project, verification of their status as registered apprentices, and documentation as to their proper wage rates and journeyman to apprentice ratios as determined by the apprenticeship program.
- 26.12 The County (Owner) reserves the right to terminate this Contract for cause if the Contractor and/or subcontractors breach any of these provisions regarding the payment of prevailing wages or the apprenticeship program.
- 26.13 **The Contractor shall cause these and any other appropriate prevailing wage rate and apprenticeship program provisions to be inserted in all subcontracts relative to the work to bind the subcontractors to the same prevailing wage rate and apprenticeship program provisions as are applicable to the Contractor.**

27. FORCE MAJEURE CLAUSE

- 27.1 A Force Majeure Event is an unpredictable or unanticipated event that makes a Party's further performance under this agreement impossible. A Force Majeure Event means an Act of God; an epidemic, pandemic, or other natural disaster declared by a governmental authority with appropriate jurisdiction over the matter; governmental rules, regulations, or orders issued in response to an epidemic, pandemic, or natural disaster; civil disorder, disturbances, riots, or war; utility-related closings; or any similar event beyond the reasonable control of such Party. **Contractor acknowledges the County Judge's authority to issue a disaster declaration under Texas law and waives any conflict of interest.**
- 27.2 The non-performing Party must give reasonably prompt written notice, to the other Party, of its inability to perform due to a Force Majeure Event, and such notice shall state the event and reason for such non-performance. Notwithstanding any provision to the contrary in this Contract, when an inability to perform has been declared under this paragraph, Contractor shall immediately cease performance of the Project and take steps to ensure public safety by improving the worksite(s)

to reasonably similar or better condition than when the Project began. Each Party is responsible for its own demobilization and storage costs under this provision. The County (Owner) is only liable for payment for Contractor's satisfactory performance completed up to the date of written notice and the reasonable amount necessary to secure the site(s) for public safety. This paragraph 27 shall survive termination of the Contract.

27.3 CONTRACTOR ACKNOWLEDGES AND AGREES THAT IT HAS READ THIS ENTIRE CONTRACT, INCLUDING (WITHOUT LIMITATION) THIS PROVISION, AND HAS TAKEN APPROPRIATE MEASURES, AT ITS OWN EXPENSE, TO MITIGATE ITS OWN FINANCIAL RISKS UNDER THIS CONTRACT. SUCH MITIGATION MAY INCLUDE (BY WAY OF EXAMPLE ONLY) THE PROCUREMENT OF A POLICY OF INSURANCE THAT MITIGATES CONTRACTOR'S RISK OF A FORCE MAJEURE EVENT AS DEFINED ABOVE.

IN WITNESS WHEREOF THE PARTIES EXECUTE THIS CONTRACT:

THE COUNTY OF EL PASO, TEXAS - OWNER

Ricardo A. Samaniego,
El Paso County Judge
Date: _____

Approved as to form:

Norma Rivera Palacios
Director of Public Works

CONTRACTOR

(Signor must have authority to bind corporation or entity)

Printed Name

Title
Date: _____

For: _____
(Name of entity)

EXHIBIT 1

County Bid _____ Entitled “_____”

And

**All Bid Addenda, Invitation for Bids, Instructions to Bidders,
General Conditions, and Contract Agreement**

EXHIBIT 2

Contractor's Bid Response

EXHIBIT 3

Contractor's Payment Bond

EXHIBIT 4

Contractor's Performance Bond

EXHIBIT 5

Insurance Requirements

INSURANCE REQUIREMENTS

Contractor agrees that, at its own cost and expense, it shall procure and continue in force throughout the term of this Agreement, for the benefit of the County of El Paso, its officers, agents, and employees, the following listed insurance in the designated amounts. All such policies of insurance shall be written by insurance underwriters authorized to do business in the State of Texas. All policies shall name the County of El Paso, its officers, agents, and employees as additional insureds. Contractor shall furnish to the El Paso County Risk Manager a certificate from the insurance carrier showing such insurance to be in full force and effect during the term of this Agreement. Said certification shall contain a provision that written notice of cancellation or of any material change in said policy by the insurer shall be delivered to the El Paso County Risk Manager thirty (30) days in advance of the effective date thereof.

1. Worker's compensation Including Occupational Disease, and Employer's Liability Insurance: Procure, and maintain during the life of the contract, Statutory Worker's Compensation Insurance and Occupation Disease Disability Insurance in strict accordance with requirements of the most current and applicable State Workmen's Compensation Insurance Laws for all employees engaged in Work under the contract, and in case any Work is sublet, require each subcontractor to provide Worker's Compensation and Occupational Disease Disability Insurance for the latter's employees engaged in such Work. In case any class of employees engaged in hazardous Work under his Contract is not protected under the Worker's Compensation Statute, the Contractor shall provide and shall cause each subcontractor to provide adequate Employer's Liability Insurance for the protection of his employees not otherwise protected.

2. Commercial and comprehensive General Liability, including Products Liability and Completed Operations: (Note "Indemnity" clause hereinafter.) Procure, and maintain during the life of the Contract, full comprehensive General Liability and Property Damage Insurance coverage. This coverage shall provide protection from claims for damages for personal injury and bodily injury including in part sickness, disease, and from claims for damages to property (including "Broad Form"), which may arise directly or indirectly out of, or in connection with, the performance of the Work under the Contract by the Contractor or by any of his subcontractors or by anyone directly or indirectly employed by either of them or under the control of either of them, and the minimum amount of such insurance shall be as follows:

(A) BODILY DAMAGE AND PUBLIC LIABILITY INSURANCE IS AN AMOUNT NOT LESS THAN FIVE MILLION DOLLARS (\$5,000,000.00) FOR DAMAGES ARISING OUT PERSONAL INJURY AND BODILY INJURY INCLUDING IN PART: SICKNESS, DISEASE OR DEATH OF ONE PERSON AND SUBJECT TO THE SAME LIMIT FOR EACH PERSON AND IN AN AMOUNT NOT LESS THAN FIVE MILLION DOLLARS (\$5,000,000.00) IN ANY ONE OCCURRENCE; AND PROPERTY DAMAGE INSURANCE (BROAD FORM) IN AN AMOUNT NOT LESS THAN FIVE MILLION DOLLARS (\$5,000,000.00) FOR DAMAGES ARISING OUT OF INJURY TO OR DESTRUCTION OF PROPERTY OF OTHERS IN ANY ONE OCCURRENCE WITH AN AGGREGATE LIMIT IN THE SAME AMOUNT. SUCH

POLICY SHALL INCLUDED COMPLETED OPERATIONS COVERAGE AND SHALL BE MAINTAINED FOR A PERIOD OF AT LEAST THREE (3) YEARS AFTER SUBSTANTIAL COMPLETION OCCURS.

(b) The Property Damage portion of this coverage shall include such hazardous operations as explosion, collapse and underground exposure coverage. In addition, completed Operations Insurance coverage shall be maintained after completion and acceptance of the project for the full guarantee and maintenance period.

(c) AUTOMOBILE LIABILITY AND PROPERTY DAMAGE INSURANCE: PROCURE, AND MAINTAIN DURING THE LIFE OF THE CONTRACT, COMPREHENSIVE AUTOMOBILE LIABILITY AND PROPERTY DAMAGE INSURANCE COVERAGE ON ALL VEHICLES USED IN CONNECTION WITH THE CONTRACT, WHETHER OWNED, NON-OWNED, OR HIRED. THE LIABILITY LIMITS SHALL BE NOT LESS THAN **ONE MILLION DOLLARS (\$1,000,000.00)** FOR INJURY OR DEATH OF EACH PERSON AND IN AN AMOUNT NOT LESS THAN **ONE MILLION DOLLARS (\$1,000,000.00)** IN ANY ONE OCCURRENCE; AND PROPERTY DAMAGE LIMITS OF NOT LESS THAN **ONE MILLION DOLLARS (\$1,000,000.00)** IN ANY ONE OCCURRENCE.

(d) Owner's Protective Liability Policy: Provide the Owner with an Owner's Protective Liability Policy naming the Owner as the named insured, with the Engineer, and each of their officers, agents, and employees as additionally insured under that policy, said policy to protect said parties from claims which may arise from operations under the Contract. This coverage shall be the same company which provides the Contractor's liability insurance coverage, and in the same minimum amounts.

(e) Contractual Liability Coverage: Each and ever policy for liability insurance carried by each Contractor and Subcontractor will include a "Broad Form Contractual Liability Coverage" endorsement sufficiently broad to insure the provision titled "indemnity" hereinafter set forth.

(f) INDEMNITY: TO THE EXTENT PERMISSIBLE BY LAW, THE CONTRACTOR SHALL PROTECT, DEFEND, INDEMNIFY AND SAVE HARMLESS THE OWNER, ITS OFFICERS, AGENTS, AND EMPLOYEES FROM AND AGAINST SUITS, ACTIONS, CLAIMS, LOSSES, LIABILITY OR DAMAGE OF ANY CHARACTER AND FROM AND AGAINST COSTS AND EXPENSES, INCLUDING IN PART, ATTORNEY FEES, INCIDENTAL TO THE DEFENSE OF SUCH SUITS, ACTIONS, CLAIMS LOSSES, DAMAGES OR LIABILITY ON ACCOUNT OF INJURY, DISEASE, SICKNESS, INCLUDING DEATH, TO ANY PERSON, OR DAMAGE TO PROPERTY, INCLUDING IN PART THE LOSS OF USE RESULTING THEREFROM, BASED UPON OR ALLEGEDLY BASED UPON ANY ACT, OMISSION OR OCCURRENCE OF THE CONTRACTOR OR HIS EMPLOYEES, AGENTS, SUBCONTRACTORS, OR SUPPLIERS, OR ANYONE ELSE UNDER THE CONTRACTOR'S DIRECTION AND CONTROL, (REGARDLESS IF CAUSED IN PART BY A PARTY INDEMNIFIED HEREUNDER), AND ARISING OUT OF, OCCURRING IN CONNECTION WITH, RESULTING

FROM, OR CAUSED BY THE PERFORMANCE OR FAILURE OF PERFORMANCE OF ANY WORK OR SERVICES CALLED FOR BY THE CONTRACT, OR FORM CONDITIONS CREATED BY THE PERFORMANCE OR NO-PERFORMANCE OF SAID WORK OR SERVICES.

(g) Builder's Risk "All-Risk" Insurance: In addition to such Fire and Extended Insurance coverage which the Contractor elects to carry for his own protection, he shall procure and shall maintain for the life of the Contract, Builder's Risk "All-Risk" Completed Value insurance coverage, including, but not limited to, Fire and standard Extended Insurance coverage, Vandalism and Malicious Mischief, upon the full insurable value of all portions of the Work which is the subject of the Contract and subject to a loss for which such Builder's Risk "All- Risk" insurance coverage gives protection and shall include completed Work and Work in progress. Value of this policy shall be fixed to the total bid price on the Bid Form. This coverage shall be with an insurance company or companies acceptable to the Owner.

(h) Boiler and/or Machinery Insurance: Boiler and/or Machinery Insurance, where appropriate and necessary, shall be procured and maintained by the Contractor until the Work has been completed and accepted by the Owner.

EXHIBIT 7

**Prevailing Wage Rates – Building
And
Definitions for Building Labor Classifications**



2020 PREVAILING WAGE RATES BUILDING

| CLASSIFICATION | BASE WAGE | BENEFITS | HOURLY PREVAILING WAGE RATE | (8 HOURS) PER DIEM WAGE RATE |
|--|-----------|----------|-----------------------------|------------------------------|
| Asbestos/Lead Abatement/Mold Remediation | 31.51 | 12.06 | 43.57 | 348.56 |
| Automatic Fire Sprinkler Fitter, Certified | 30.64 | 21.68 | 52.32 | 418.56 |
| Block, Brick, and Stone Mason | 17.97 | 0.00 | 17.97 | 143.76 |
| Carpenters – Acoustical Ceiling Installation | 17.36 | 0.00 | 17.36 | 138.88 |
| Carpenter – Rough | 17.64 | 0.00 | 17.64 | 141.12 |
| Carpenter – All Other Work | 17.40 | 0.00 | 17.40 | 139.20 |
| Caulker / Sealers | 11.29 | 0.00 | 11.29 | 90.32 |
| Cement and Concrete Finishers | 16.30 | 0.00 | 16.30 | 130.40 |
| Commercial Truck Driver | 14.75 | 0.00 | 14.75 | 118.00 |
| Communication/Security Technician | 16.50 | 2.12 | 18.62 | 148.96 |
| Crane and Heavy Equipment Operator | 31.05 | 0.00 | 31.05 | 248.40 |
| Door & Hardware Specialist | 12.00 | 1.35 | 13.35 | 106.80 |
| Drywall and Ceiling Tile Installers | 14.40 | 0.00 | 14.40 | 115.20 |
| Drywall Finishers & Tapers | 15.55 | 0.00 | 15.55 | 124.40 |
| Electrician | 22.70 | 7.32 | 30.02 | 240.16 |
| Elevator Installers and Repairers | 31.35 | 15.10 | 46.45 | 371.60 |
| Fence Erectors – Include with Skilled Labor | 10.00 | 0.00 | 10.00 | 80.00 |
| Floor Layers- Carpet and Resilient | 12.87 | 0.00 | 12.87 | 102.96 |
| Floor Layers- Specialty | 13.00 | 0.00 | 13.00 | 104.00 |
| Floor Layers - Wood | 11.50 | 0.00 | 11.50 | 92.00 |
| Glaziers | 15.86 | 1.00 | 16.86 | 134.88 |
| Hazardous Materials Removal Workers | 10.00 | 0.00 | 10.00 | 80.00 |
| Heating, Air Conditioning and Refrigeration Service Technician | 31.14 | 12.43 | 43.57 | 348.56 |
| Insulation Workers – Mechanical | 31.26 | 11.96 | 43.22 | 345.76 |
| Irrigator – Landscape, Certified | 15.28 | 0.00 | 15.28 | 122.24 |
| Laborer | 13.13 | 0.58 | 13.71 | 109.68 |
| Locksmith | 12.00 | 1.35 | 13.35 | 106.80 |
| Mechanic | 17.00 | 0.00 | 17.00 | 136.00 |
| Painters - Building | 13.86 | 0.00 | 13.86 | 110.88 |
| Paper Hanger | 14.00 | 0.00 | 14.00 | 112.00 |
| Pipe Layer (Utility) | 18.00 | 0.00 | 18.00 | 144.00 |
| Pipe Fitters and Steamfitters | 23.53 | 9.02 | 32.55 | 260.40 |
| Plaster, Stucco, Lather and EIFS Applicator | 16.82 | 0.00 | 16.82 | 134.56 |
| Plumber/ Medical Gas Installer | 31.39 | 10.77 | 42.16 | 337.28 |
| Reinforcing Iron and Rebar Workers | 22.69 | 0.00 | 22.69 | 181.52 |
| Roofers | 16.00 | 0.00 | 16.00 | 128.00 |
| Scaffolding Erector | 13.69 | 0.00 | 13.69 | 109.52 |
| Sheet Metal Workers | 27.16 | 0.00 | 27.16 | 217.28 |
| Structural Iron and Steel Workers / Metal Building Erector | 25.57 | 13.24 | 38.81 | 310.48 |
| Tile Setters | 13.86 | 0.00 | 13.86 | 110.88 |

APPROVED 12/14/2020
REVISED 1/25/2021

2020 BUILDING DEFINITIONS

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|---|---|---|
| 1 | Asbestos / Lead Abatement / Mold Remediation | Assembles work platform and seals off work area, using plastic sheeting and duct tape. Positions mobile decontamination unit or portable showers at entrance of work area. Positions portable air evacuation and filtration system inside work area. Cuts and scrapes asbestos, mold or paint from surfaces, using knife and scraper. Assists in demolition and deconstruction activities of buildings. Shovels asbestos, mold or paint into plastic disposal bags and seals bags, using duct tape. Cleans work area of loose asbestos, mold or paint, using vacuum, broom, and dust pan. Places asbestos, mold or paint in disposal bags and seals bags, using duct tape, loads bags into truck. Cleans and maintains tools, sampling equipment and lab equipment. Responsible for keeping site and grounds clean and neat. Performs daily equipment checks. Picks up necessary supplies and tools from warehouse as directed. Loads and unloads scrap materials into trucks and roll off boxes. Performs work safely in accordance with departmental safety procedures and operates equipment safely. Reports any unsafe work condition or practice to supervisor. Performs other related and non-related duties as assigned. |
| 2 | Automatic Fire Sprinkler Fitter, Certified | Sprinkler Fitters specialize in piping associated with fire sprinkler systems. These types of systems are required to be installed and maintained in accordance with strict guidelines, usually National Fire Protection Association (NFPA) standards, in order to maintain compliance with building and fire codes. Sprinkler Fitters work with a variety of pipe and materials including: plastic, copper, steel, cast iron, and ductile iron. The fire suppression piping may contain: water, air, antifreeze, fire retardant foam, gas, or chemicals for hood systems. Sprinkler systems installed by Sprinkler Fitters can include but not limited: to underground supply, standpipes, fire pumps as well as overhead piping systems. |
| 3 | Block, Brick, and Stone Mason | Lay and bind building materials, such as: brick, structural tile, concrete block, cinder block, glass block, and terra-cotta block, with mortar and other substances to construct, or repair walls, partitions, arches, sewers, and other structures. Classify installers of mortarless segmental concrete masonry wall units. Constructs partitions, fences, walks, fireplaces, chimneys, smokestacks, et cetera using stone, marble, granite, slate. Cutting, grouting, and pointing of materials listed above which is necessary shall be part of this classification. |
| 4 | Carpenters -Acoustical Ceiling Installation | Construct, erect, install or repair acoustical ceiling grid, ceiling tile, and other items laid in acoustical grid. |
| 5 | Carpenter – Rough | Construct, erect, install, or repair structures and fixtures made of wood, such as concrete forms; building frameworks, including partitions, joists, studding, and rafters; wood stairways, window and door frames. May also install cabinets, and siding. Include brattice builders who build doors or brattices (ventilation walls or partitions) in underground passageways to control the proper circulation of air through the passageways. |

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| 6 | Carpenter – All Other Work | Construct, erect, install or repair cabinets and other fixtures or structures requiring a high level of workmanship. Includes Cabinetmakers and Bench Carpenters – cut, shape, and assemble wooden articles or set up and operate a variety of woodworking machines, such as power saws, jointers, and mortisers to surface, cut or shape lumber or to fabricate parts for wood products. Perform related duties such as trim work. |
| 7 | Caulker/Sealers | Applies water proofing agents or caulk to a variety of structures and materials. |
| 8 | Cement and Concrete Finishers | Smooth and finish surfaces of poured concrete, such as floors, walks, sidewalks, roads, or curbs using a variety of hand and power tools. Align forms for sidewalks, curbs, or gutters; patch voids; use saws to cut expansion joints. Classify installers of mortarless segmental concrete wall units. |
| 9 | Commercial Truck Driver | Drive a truck, van or tractor-trailer combination to transport and deliver goods, or materials in liquid, loose, or packaged form. May be required to unload truck. |
| 10 | Communication / Security Technician | Set-up, re-arrange, or remove switching and dialing equipment used in central offices. Service or repair telephones and other communication equipment on customers' property. May install equipment in new locations or install wiring and telephone jacks in buildings under construction. Install, program, maintain, and repair security and fire alarm wiring and equipment. Ensure that work is in accordance with relevant codes. Exclude "Electricians" who do a broad range of electrical wiring. |
| 11 | Crane and Heavy Equipment Operator | A worker who operates a crane or other types of heavy equipment to hoist and move materials, raise and lower heavy weights and perform other related operations. May be crawler type or rubber-tired. May oil, grease or otherwise service and make necessary adjustments to equipment as needed. Performs other related duties. |
| 12 | Door and Hardware Specialist | Installs or repairs doors, hardware and accessories. Are responsible for the installation of contract commercial hardware and custom architectural grade wood doors, steel doors and frames for all Prevailing Wage jobs. Shall be trained by their employer's, employer's apprenticeship, or in factory training classes in the proper methods and techniques and requirements for the installation of Architectural Grade commercial wood and metal doors, frames and hardware in conformance with all local, state, and federal code. |
| 13 | Drywall and Ceiling Tile Installers | Apply plasterboard, or other wallboard to ceilings, or interior walls of buildings. Apply or mount acoustical tiles or blocks, strips, or sheets of sound-absorbing materials to ceilings and walls of buildings to reduce or reflect sound. Materials may be of decorative quality. Includes metal stud framing. Exclude "Carpet Installers", "Carpenters – Acoustical Ceiling Installation", and "Tile and Marble Setters". |
| 14 | Drywall Finishers and Tapers | Seal joints between plasterboard or other wallboard, including bedding and texturing, to prepare wall surface for painting or papering. |

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| 15 | Electrician | Plan and execute the layout and installation of electrical conduit, switch panels, buss bars, outlet boxes, electrical wires and cables, lighting standards, lighting fixtures, receptacles, switches, and other electrical devices and apparatus necessary for the complete electrical installation. To include the installation of cabling, wire, conduits and end devices for Temperature Control, Building Automation, and Energy Management Systems, et cetera. Includes installation of photovoltaic solar panels. |
| 16 | Elevator Installers and Repairers | Assemble, install, repair, or maintain electric or hydraulic freight or passenger elevators, escalators, dumbwaiters, or wheelchair lifts. |
| 17 | Fence Erectors - Include with Skilled Labor | Erect and repair metal and wooden fences and fence gates around highways, industrial establishments, residences, or farms, using hand and power tools. Excludes rock and stone fences. |
| 18 | Floor Layers – Carpet and Resilient | Apply blocks, strips, or sheets of shock-absorbing, sound-deadening, or decorative coverings to floors. Lay and install carpet from rolls, tiles or blocks on floors. Install padding and trim flooring materials. Installs variety of soft floor materials including vinyl and VCT. Exclude wood floors and specialty floors. |
| 19 | Floor Layers - Specialty | Prepares surface, installs and finishes specialty floor material such as manufactured or engineered and laminated wood. |
| 20 | Floor Layers - Wood | Install, scrape and sand wooden floors to smooth surfaces using floor scraper and floor sanding machine, and apply coats of finish to include gymnasium and bowling alleys. |
| 21 | Glaziers | Installs glass in windows skylights, store fronts and display cases, or on surfaces such as: building fronts, interior walls, ceilings and table tops. The installation, setting, cutting, preparing, fabricating, distributing, handling or removal of the following: glass and glass substitutes used in place of glass, pre-glazed windows, retrofit window systems, mirrors, curtain wall systems, window wall systems, cable net systems, canopy systems, structural glazing systems, unitized systems, interior glazing systems, photovoltaic panels and systems, suspended glazing systems, louvers, skylights, entranceway systems including doors and hardware, revolving and automatic door systems, patio doors, store front systems including the installation of all metals, column covers, panels and panel systems, glass hand rail systems, decorative metals as part of the glazing system, and the sealing of all architectural metal and glass systems for weatherproofing and structural reasons, vinyl, molding, rubber, lead, sealants, silicone and all types of mastics in wood, iron, aluminum, sheet metal or vinyl sash, doors, frames, stone wall cases, show cases, book cases, sideboards, partitions and fixtures. Performs other related duties. |
| 22 | Hazardous Materials Removal Workers | Identify, remove, pack, transport, or dispose of hazardous materials, including asbestos, lead-based paint, waste oil, fuel, transmission fluid, radioactive materials, contaminated soil, mold, et cetera. Specialized training and certification in hazardous materials handling or a confined entry permit are generally required. May operate earth-moving equipment or trucks. |

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| 23 | Heating, Air Conditioning and Refrigeration Service Technician | Repair and service heating, central air conditioning, or refrigeration systems, including oil burners, hot-air furnaces, heating stoves, and air handlers. (Installation of systems is performed by sheet metal worker). Includes HVAC mechanic. |
| 24 | Insulation Workers – Mechanical | This work includes the preparation, alteration, application, removal, hauling, erection, assembling, molding, spraying, pouring, mixing, hanging, adjusting, repairing, dismantling, reconditioning, maintenance, finishing, and/or weatherproofing of cold or hot thermal insulations with such materials as may be specified when those materials are to be installed for thermal purposes in voids, or to create voids, or on either piping, fittings, valves, boilers, ducts, flues, tanks, vats and equipment, or on any hot or cold surfaces for the purpose of thermal control or to be installed for sound control purposes mechanical devices, equipment, piping, surfaces related in an integral way to the insulation of such mechanical devices, equipment and piping. This work also includes all labor connected with insulation for; temperature control, personnel protection, safety and/or prevention of condensation. This work also includes all labor connected with hauling, distribution and cleanup of materials on the job premises. All thermal tape, pads, metered fittings (insulation, metal or plastic), batts and lags. |
| 25 | Irrigator- Landscape, Certified | Certified by TCEQ to install watering systems in various sizes and grades of lawn in order to maintain sufficient pressure and to insure even dispersal of water. |
| 26 | Laborer | Laborer Performs manual duties in all phases of construction. Demolition (interior and exterior), Flagging and Traffic Control, General Clean-Up, Air and Power Tool Operators (Including chipping guns, jackhammers and tampers), all material handling and clean-up, except refractory, chute/hose operator, raking, shoveling and vibrating, raking, shoveling, luting, ironing, dumping and spreading, trenching, material handling, back filling (*Equipment Operators Incidental to Laborers' scope of work). Landscape or maintain grounds of property using equipment as needed. Workers typically perform a variety of tasks, which may include any combination of the following: sod laying, mowing, trimming, planting, watering, fertilizing, digging, raking, sprinkler repair, and installation of mortarless segmental concrete masonry wall units. Does not ordinarily perform work permitting exercise of independent judgment or without close direction by other workers. |
| 27 | Locksmith | Self-explanatory. |
| 28 | Mechanic | Maintains and repairs construction tools and equipment. |
| 29 | Painters - Building | Paint walls, equipment, buildings, bridges, and other structural surfaces, using brushes, rollers, and spray guns. May remove old paint to prepare surface prior to painting. May mix colors or oils to obtain desired color or consistency. Exclude "Paperhangers." |
| 30 | Paper Hanger | Measures, cuts, and hangs wallpaper and Fiber Reinforced Paneling. |

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| 31 | Pipelayers (Utility) | Installs concrete, clay, steel, ductile iron, plastic, corrugated pipe and any other type of pipe for storm drainage, water lines, gas lines and sanitary sewer lines. Lays underground communication and electrical ducts. May install and set electrical ground boxes, hand holes, manholes, inlets and other structures. Caulks joints, makes threaded and flanged connections. Installs valves and other accessories. Performs other related duties. |
| 32 | Pipe Fitters and Steamfitters | Assemble, install, alter, and repair pipelines or pipe systems that carry water, steam, air, or other liquids or gases. May install heating and cooling equipment and mechanical control systems. Includes pressurized lines and flow lines for gas, air, and oil found in industrial settings. |
| 33 | Plaster, Stucco, Lather, and EIFS Applicator | Apply interior or exterior plaster, stucco, or similar materials. May also set ornamental plaster. Applies acoustical plaster, interior and exterior plastering of stone imitation or any patented materials when cast. Molds and sets ornamental plaster and trim and runs ornamental plaster cornice and molding. |
| 34 | Plumbers/ Medical Gas Installer | Assemble, install, alter, and repair pipelines or pipe systems that carry water, steam, air, or other liquids or gases. May install heating and cooling equipment and mechanical control systems. Assemble, install, alter, and repair pipelines or pipe systems that carry medical gases or liquids. Specialized training and certification required. |
| 35 | Reinforcing Iron and Rebar Workers | Position and secure steel bars or mesh in concrete forms in order to reinforce concrete. Includes post-tensioning. Use a variety of fasteners, rod-bending machines, blowtorches, and hand tools. |
| 36 | Roofers | Cover roofs of structures with shingles, tile, slate, asphalt, aluminum, wood, metal and related materials. May spray roofs, sidings, and walls with material to bind or seal sections of structures. Includes metal and membrane roofs. |
| 37 | Sheet Metal Workers | Fabricate, assemble, install, and repair sheet metal products and equipment, such as ducts, seal the system, pressure test and test and balance, control boxes, drainpipes, architectural sheet metal, hangers, brackets, used in the installation of sheet metal, and installs grills, registers, and furnace casings. Work may involve any of the following: setting-up and operating fabricating machines to cut, bend, and straighten sheet metal, operating soldering equipment to join sheet metal parts; inspecting, assembling, and smoothing seams and joints of burred surfaces, including metal flashings, gutters, canopies, soffit's, louvers, skylights and custom metal roofs. Installs warm air furnaces except where necessary piping for gas, or oil is performed under the plumbing and pipefitting classification. Include sheet metal duct installers who install prefabricated sheet metal ducts used for heating, air conditioning, or other purposes. Fire life safety, damper inspection, stairwell pressurization. May install other heating and cooling devices which are in connection with duct systems. |

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| 38 | Structural Iron and Steel Workers/Metal Building Erector | Rigging, raise, place, and unite iron or steel, prefabricated metal buildings precast concrete, precast "tilt-up" panels, concrete and steel bridge members, concrete decking, ornamental iron, hand rails, stairs, curtain wall/glass framework, girders, columns, beams, and other structural members to form completed structures or structural frameworks using hand tools, power tools, and hoisting equipment. Erects frame of building, using hoist. Bolts steel frame members together. Attaches wire and insulating materials to framework. Attaches sheet metal panels to framework including standing seam sheets. Installs and trims sheet metal on prefabricated metal buildings, using cutting torch, power saw, and tin snips. Rigging of heavy equipment, assembly and disassembly of cranes. May erect metal storage tanks. Exclude "Reinforcing Iron and Rebar Workers". |
| 39 | Tile Setters | Apply hard tile, terrazzo tile and veneer to walls, floors, and ceilings. Includes surface preparation as necessary. |
| 40 | Scaffolding Erector | Erection of a temporary elevated platform (both supported and suspended) and its supporting structure (including points of anchorage) to be used for supporting employees or material or both. |

- **Welder** - Receives rate prescribed for craft performing operation to which welding is incidental.
- **Fork Lift and Man Lift (boom and scissor)** - Receives rate prescribed for craft performing operation to which operation of this equipment is incidental.

EXHIBIT 8

**Prevailing Wage Rates – Heavy / Highway
And
Definitions for Heavy / Highway Labor Classifications**



2020 PREVAILING WAGE RATES HEAVY / HIGHWAY

| CLASSIFICATION | BASE WAGE PER HOUR | TOTAL FRINGES PER HOUR | HOURLY PREVAILING WAGE RATE | PER DIEM WAGE RATE |
|--|-----------------------------|---------------------------------|-----------------------------------|--------------------------|
| Asphalt Distributor Operator | 16.07 | 2.78 | 18.85 | 150.80 |
| Asphalt Paving Machine Operator / Spreader Box Operator | 14.62 | 1.42 | 16.04 | 128.32 |
| Asphalt Raker | 14.30 | 1.44 | 15.74 | 125.92 |
| Backhoe Operator | 16.43 | 1.25 | 17.68 | 141.44 |
| Concrete Finishers (Paving and Structures) | 15.58 | 1.41 | 16.99 | 135.92 |
| Crane Operator, Lattice Boom | 17.50 | 0.00 | 17.50 | 140.00 |
| Crane Operator, Hydraulic | 20.00 | 0.00 | 20.00 | 160.00 |
| Electrician | 23.62 | 1.97 | 25.59 | 204.72 |
| Excavator Operator | 18.61 | 1.52 | 20.13 | 161.04 |
| Form Builder/Setter | 17.84 | 0.75 | 18.59 | 148.72 |
| Form Setter (Paving and Curb) | 12.86 | 0.00 | 12.86 | 102.88 |
| Front End Loader | 16.28 | 1.09 | 17.37 | 138.96 |
| Laborer | 13.53 | 1.16 | 14.69 | 117.52 |
| Laborer (Skilled)(Utility) | 15.49 | 0.73 | 16.22 | 129.76 |
| Mechanic | 17.50 | 0.00 | 17.50 | 140.00 |
| Milling Machine Operator | 24.96 | 0.00 | 24.96 | 199.68 |
| Motor Grader Operator (Fine) | 20.76 | 2.41 | 23.17 | 185.36 |
| Pavement Marking Machine Operator | 16.28 | 1.09 | 17.37 | 138.96 |
| Pipe Layer (Utility) | 15.24 | 2.69 | 17.93 | 143.44 |
| Reinforcing Steel Setter (Structure and Paving)/ Structural Steel Worker | 17.00 | 0.00 | 17.00 | 136.00 |
| Rock Mason | 14.00 | 0.00 | 14.00 | 112.00 |
| Roller Operator | 14.96 | 2.32 | 17.28 | 138.24 |
| Servicer | 14.33 | 0.00 | 14.33 | 114.64 |
| Truck Driver, Single Axle | 13.56 | 0.00 | 13.56 | 108.48 |
| Truck Driver, Tandem Axle | 17.43 | 0.93 | 18.36 | 146.88 |
| Utility Operator Grade 1 | 14.32 | 0.76 | 15.08 | 120.64 |
| Utility Operator Grade 2 | 15.31 | 1.46 | 16.77 | 134.16 |
| Welder, Certified/ Structural Steel Welder | 20.00 | 0.00 | 20.00 | 160.00 |

2020 HEAVY / HIGHWAY DEFINITIONS

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| 1 | Asphalt Distributor Operator | Drives distributor truck, sets spray bars and operates valves and levers to control distribution of bituminous material for highway surfacing. May oil, grease or otherwise service and make adjustments to equipment as needed. Performs other related duties. |
| 2 | Asphalt Paving Machine Operator/Spreader Box Operator | Operates paving machine that spreads and levels asphaltic concrete on highway. Controls movement of machine, raises and lowers screed, regulates width of screed. Operates spreader box by adjusting hopper and strike-off blade so that gravel, stone or other material may be spread to a specific depth on road surface during seal coat and surface treatment operations. May oil, grease, service and make adjustments to equipment as needed. Performs other related duties. |
| 3 | Asphalt Raker | Distributes asphaltic materials evenly over road surface by hand-raking and brushing material to correct thickness; may control screed to regulate width and depth of materials; directs Laborers (skilled and unskilled) when to add or take away material to fill low spots or to reduce high spots. |
| 4 | Backhoe Operator | Operates a rubber-tired machine mounted with a backhoe bucket on one end and a loader bucket on the other end. Used for excavating ditches and structures, laying pipe and precast concrete structures, carrying material in the loader bucket, and general excavation and backfill. May also be equipped with hydraulic attachments. May oil, grease or otherwise service and make necessary adjustments to equipment as needed. Performs other related duties. |
| 5 | Concrete Finisher (Paving and Structures) | Finishes the exposed surfaces of fresh concrete paving, median barrier and every element of concrete structures. Operates bridge deck finishing machine. Forms and finishes edges and joints. Finishes concrete curbs and gutters. Finishes exposed surface of concrete after forms have been removed by patching imperfections with fresh concrete, rubbing surface with abrasive stone, and directing others in removing excess or defective concrete with power tools. Performs other related duties. |
| 6 | Crane Operator, Lattice Boom | A worker who operates a lattice boom type crane to hoist and move materials, raise and lower heavy weights and perform other related operations. May be crawler type or rubber tired. May include placement of rock riprap, clamshell, dragline, pipe and pile driving operations. May oil, grease or otherwise service and make necessary adjustments to equipment as needed. Performs other related duties. |
| 7 | Crane Operator, Hydraulic | A worker who operates a hydraulic telescoping boom type crane to hoist and move materials, raise and lower heavy weights and perform other related operations. May be crawler type or rubber-tired. May oil, grease or otherwise service and make necessary adjustments to equipment as needed. Performs other related duties. |

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| 8 | Electrician | Plan and execute the layout and installation of electrical conduit, switch panels, buss bars, outlet boxes, electrical wires and cables, lighting standards, lighting fixtures, receptacles, switches, and other electrical devices and apparatus necessary for the complete installation of wiring systems, works on overhead distribution systems and underground distribution systems. Includes installation of photovoltaic solar panels. |
| 9 | Excavator Operator | Operates a crawler or rubber-tired machine mounted with an excavator bucket. Used for excavating ditches and structures, laying pipe and precast concrete structures, loading trucks and placing rock riprap. May also be equipped with various hydraulic attachments. May oil, grease or otherwise service and make necessary adjustments to equipment as needed. Performs other related duties. |
| 10 | Form Builder/Setter | Works from plans to build, assemble, fit together, align, plumb, and set in place forms for molding concrete structures. Forms may be wood, steel, aluminum, fiberglass or any other type of material. Checks forms while concrete is being placed. May install miscellaneous materials integral to concrete structures. May set precast concrete elements. Prepares for slip forming traffic rail and median barrier. May install permanent metal deck forms. May work with power tools. Performs other related duties. Includes guardrail installation. |
| 11 | Form Setter (Paving and Curb) | Fits together, aligns and sets to grade metal and wooden forms for placement for concrete paving and curbs. Works with survey crew to set stringline for paving, curb and gutter and curb. Performs other related duties. |
| 12 | Front End Loader | Operates a rubber-tired, skid steer or crawler type tractor with an attached scoop type bucket on front end. Machine is used to load materials from stockpiles, excavation, charging batch plants, loading and unloading trucks. May be used with attachments in lieu of the bucket. May oil, grease or otherwise service and make necessary adjustments to equipment as needed. Performs other related duties. |
| 13 | Laborer | A general term used on construction work covering many unskilled classifications requiring work of a physical nature. Performs a variety of work ranging from pick and shovel work to cleaning up lumber with hammer, shoveling and placing concrete, uses air tools, under the supervision of qualified personnel. Cleans concrete joints and fills joints with sealing compound from bucket or with hose and nozzle from a central source, applies coating of oil to inside face of forms and strip forms, unloads and transports reinforcing steel, cures newly poured concrete, assists pipelayers, works with dirt crew keeping construction layout stakes out of the way of dirt-moving equipment. May fine grade excavation and ditches, shovels hot asphalt material. May use power tools and other necessary equipment in demolition work under the supervision of qualified personnel. Does not ordinarily perform work permitting exercise of independent judgment or without close direction by other workers. Installs and maintains erosion control. Performs other related duties. |

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| 14 | Laborer (Skilled) (Utility) | Performs a variety of manual duties, usually working in a utility capacity by working on multiple projects and tasks where demands require workmen with varied experience and ability to work without close direction. Unloads and transports reinforcing steel. Directs laborers in pouring concrete. Erects trench shoring and bracing. Installs, operates, and maintains watering systems. May assist equipment operators in positioning machines, verifying grades and signaling operators to dumping positions to maintain grades as directed. Uses power tools and air tools. May work as lead man in a labor crew. Is more or less a general utility construction worker. May be a second step in learning a skill. Includes Concrete/Granite Pump Operator, Concrete Saw Operator, Fence Erector, Flagger, and Sign Erector. Performs other related duties. |
| 15 | Mechanic | Assembles, assist set up, adjusts and maintains and repairs all types of construction equipment and trucks. May perform the duties of a welder in repair of equipment. Performs other related duties. |
| 16 | Milling Machine Operator | Operates power-driven milling machine that planes material off the roadbed and discharges the material into a hauling unit or a window. May oil, grease or otherwise service and make necessary adjustments to equipment as needed. Performs other related duties. |
| 17 | Motor Grader Operator (Fine) | Operates motor grader. Performs many of the same duties of Motor Grader, Rough, but in addition performs finish grade work to bluetops or other close specification control. This work is subject to strict inspection and must conform closely to specifications. May oil, grease or otherwise service and make necessary adjustments to equipment as needed. Performs other related duties. |
| 18 | Pavement Marking Machine Operator | Operates a machine used in laying paint stripes or markers on all types of paving. Loads of machine with appropriate materials and may walk or ride on machine. May oil, grease or otherwise service and make necessary adjustments to equipment needed. Perform other related duties. |
| 19 | Pipe Layer (Utility) | Installs concrete, clay, steel, ductile iron, plastic, corrugated pipe and any other type of pipe for storm drainage, water lines, gas lines and sanitary sewer lines. Lays underground communication and electrical ducts. May install and set electrical ground boxes, hand holes, manholes, inlets and other structures. Caulks joints, makes threaded and flanged connections. Installs valves and other accessories. Performs other related duties. |
| 20 | Reinforcing Steel Setter (Structure and Paving)/ Structural Steel Worker | Works from plans to lay out and install reinforcing steel within forms or in mats of concrete paving. Erects and places reinforcing steel and fabricated structural steel members, such as girders, plates, diaphragms, lateral bracing, and unites them permanently to form a completed structural steel unit, including reinforcing members. Fastens steel members together by welding or bolting. May include dismantling and erecting large units of equipment. Gives direction to reinforcing steel worker apprentice or utility laborers. Performs other related duties. |

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| 21 | Rock Mason | Constructs partitions, fences, walls, using rock. Cutting, grouting and pointing of materials listed above which is necessary shall be part of this classification. May also build or repair rock retaining walls, cutting or placing of rock in mortar or other similar material. |
| 22 | Roller Operator | Operates a self-propelled machine with either steel wheels or pneumatic tires which is used to compact and smooth bituminous and flexible base materials and compact earth fills, subgrade, and all other types of materials. May oil, grease or otherwise service and make necessary adjustments to equipment as needed. Performs other related duties. |
| 23 | Servicer | Drives a truck which carries various fuels, oils, greases and filters. Must have knowledge of and is responsible for the correct oiling and greasing and changing of filters on equipment according to manufacturers' specifications. Uses compressed air grease guns, wrenches and other tools. May make adjustments to clutches, brakes and other mechanical items. Keeps record of service for preventive maintenance records. May require a Commercial Driver's License if driving truck on public highways. Performs other related duties. |
| 24 | Truck Driver, Single Axle | Drives a light capacity truck for transporting loads of construction material. The truck is of single rear axle type, may have various kinds of beds attached such as dump, flat bed, tank, etc. May require CDL license for driving on highway. May service and make necessary adjustments for proper operation of equipment. Performs other related duties. |
| 25 | Truck Driver, Tandem Axle | Drives a tandem axle powered vehicle. Hauls dirt, rock, aggregates or other material. May require CDL license for driving on highway. May service and make necessary adjustments for proper operation of equipment. Performs other related duties. |
| 26 | Utility Operator Grade 1 | Clam, ditching machine, side booms (except those in Grade 2), operator on dredges, cleaning machine, coating machine, blending machine, water-kote machine, equipment welder, track tractor, derrick, dragline, shovel, motor grader rough grade, Crawler tractor, foundation drill operator, crawler and truck mounted, and pile driver. |
| 27 | Utility Operator Grade 2 | Pipe, gin truck or winch truck with poles when used for hoisting, side boom (cradling rock drill), tow tractor, farm tractor road boring machine, fork lift (industrial type), pot fireman (power agitated), straightening machine, boring machine, bombardier (track or tow rig), , hydrostatic testing operator, scraper, staking machine, plant mix pavement roller operator, plant mix pavement, pneumatic motor operator. Concrete paving curing, float, texturing machine, subgrade trimmer, slip-form machine, milling machine, self-propelled sweeping machine, trenching machine, directional drill, trenching, screening plant, and joint sealer. Off Road Hauler, Pavement Marking Machine Operator Reclaimer/Pulverizer Operator, Slurry Seal or Micro-Surfacing Machine Operator. |

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| 28 | Welder, Certified / Structural Steel Welder | Certified by the American Welding Society to perform structural steel welding. Operates welding equipment. Welds structural steel girders and diaphragms. May weld permanent metal deck forms. Cuts, lays-out, fits and welds metals or alloyed metal parts to fabricate or repair equipment. Welds the joints between lengths of pipe for oil, gas or other types of pipelines. May assist in welding of permanent metal deck forms. Performs other related duties. |
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EXHIBIT 9

Apprenticeship Order and List of Required Apprenticeship Programs

**ORDER OF THE COMMISSIONERS COURT OF
ELPASO COUNTY REGARDING APPRENTICESHIP
PROGRAM REQUIREMENTS**

Whereas, the County of El Paso supports the adoption of an apprenticeship program for all county building construction projects in the amount of \$50,000 and higher and desires the inclusion of language mandating participation in apprenticeship programs certified by the U.S. Department of Labor (DOL) in all County building construction contracts; and

Whereas, the purpose of the apprenticeship program is to require that only journeymen and apprentices registered in an apprentice program certified by DOL perform work on county building construction projects in order to ensure both quality construction work as well as provide training opportunities; and

Whereas, a DOL certified apprenticeship program requirement for local building construction projects is consistent with the state prevailing wage rate law pursuant to Chapter 2258, Texas Government Code.

NOW THEREFORE BE IT RESOLVED, that the County of El Paso adopts the El Paso County Apprenticeship Program requiring the following of all building contractors and their subcontractors on County Building Construction Projects:

1. must sponsor or participate in a DOL certified apprenticeship program for all job classifications utilized on the project and which are "apprenticeable occupations" as defined by DOL regulations, except when there is a state statute requiring certification for an occupation which has inconsistent requirements;
2. must hire registered apprentices enrolled in a DOL certified apprenticeship program;
3. may not substitute helpers or unregistered apprentices to perform apprentice level work in place of registered apprentices;
4. must pay wage rates and benefits package for apprentices as determined by apprenticeship program/DOL;
5. must comply with DOL requirements for the ratio of apprentices to journeymen;
6. must hire apprentices in all job classifications utilized on the project and which are "apprenticeable occupations" as defined by DOL regulations, unless such placement would not be approved by the apprenticeship program.

BE IT FURTHER RESOLVED that the County Purchasing Agent is hereby directed to include notice of the County apprenticeship requirements in all specifications for bids on building constructions projects in the amount of \$50,000 or higher.

APPROVED on this the 23rd day of June, 2008.

ANTHONY COBOS
EL PASO COUNTY JUDGE

**El Paso County
2008 Required Apprenticeship Programs**

1. Acoustical Carpenter
2. Bricklayer and Mason
3. Cabinet Maker
4. Carpenter
5. Cement Mason
6. Drywall Application
7. Electrician
8. Electronic Systems Technician
9. Elevator Constructor & Repairer
10. Floor Layer
11. Glazier
12. HVAC
13. Insulation Worker
14. Locksmith
15. Operating Engineer
16. Painters
17. Pipefitter
18. Plasterer
19. Plumber
20. Protective Signal Installer
21. Roofers
22. Sheet Metal Worker
23. Structural Steel/Ironworker
24. Tile Setter

**General Provisions
County of El Paso, Texas**

These General Provisions are considered standard language for all County of El Paso BIDS and Request for Proposal documents. If any “specific bid requirements” differ from the General Provisions listed here, the “specific bid requirements” shall prevail.

1. BID/PROPOSAL PACKAGE

- a. The request for bid/proposal, general and special provisions, drawings, specifications/line item details, contract documents and the bid/proposal sheet are all considered part of the bid/proposal package. Bids/Proposals must be submitted on the forms provided by the County, including the bid/proposal sheet completed in its entirety and signed by an authorized representative by original signature. Failure to complete and sign the bid/proposal sheet/contract page (s) may disqualify the bid/proposal from being considered by Commissioners’ Court. Any individual signing on behalf of the proposer expressly affirms that he or she is duly authorized to tender this bid/proposal and to sign the bid/proposal sheet/contract under the terms and conditions in this bid/proposal. Proposer further understands that the signing of the contract shall be of no effect unless subsequently awarded and the contract properly executed by Commissioners’ Court. All figures must be written in ink or typed. Figures written in pencil or with erasures are not acceptable. However, mistakes may be crossed out, corrections inserted, and initialed in ink by the individual signing the bid/proposal. Changes must also be made to any electronic copies submitted. If there are discrepancies between unit prices quoted and extensions, the unit price will prevail. Each bidder/proposer is required to thoroughly review this entire bid/proposal packet to familiarize themselves with the bid/proposal procedures, the plans and specifications for the requested work as well as the terms, and conditions of the contract the successful proposer will execute with the County.
- b. Bid/Proposal must be in the Purchasing Department BEFORE the hour and date specified. Faxed or e-mailed bids/proposals will not be accepted. Late bids/proposals will not be considered under any circumstances.**
- c. Any bid/proposal sent via express mail or overnight delivery must have the BID/RFP number and title clearly marked on the outside of the envelope or package. Failure to clearly identify your bid/proposal may be cause for disqualification.

2. COMPETITIVENESS AND INTEGRITY

To prevent biased evaluations and to preserve the competitiveness and integrity of such acquisition efforts, proposers are to direct all communications regarding this bid/proposal to the El Paso County Purchasing Agent or assigned designee, unless otherwise specifically noted.

An authorized person from the submitting firm must sign all bids/proposals. The signature acknowledges that the proposer has read the bid/proposal documents

thoroughly before submitting a bid/proposal and will fulfill the obligations in accordance to the terms, conditions, and specifications.

Please carefully review this Request for Bid/Proposal. It provides specific information necessary to aid participating firms in formulating a thorough response.

3. BIDDERS'S/PROPOSER'S RESPONSIBILITY

The Bidder/Proposer must affirmatively demonstrate its responsibility. The Bidder/Proposer must also meet the following minimum requirements:

- Have been in business of providing services for a minimum of one (1) years;
- Have adequate financial resources or the ability to obtain such resources as required;
- Be able to comply with all federal, state, and local laws, rules, regulations, ordinances and orders regarding this Request for Bid/Proposal;
- Have satisfactory record of performance;
- Have a satisfactory record of integrity and ethics; and
- Be otherwise qualified and eligible to receive an award.

4. REJECTION OF BIDS/PROPOSALS

The County, acting through its Commissioners' Court reserves the right to: (1) reject any and all bids/proposals and waive any informality in the bids/proposals received; (2) disregard the bid/proposal of any proposer determined to be not responsible. The County further reserves the right to reject any bid/proposal due to failure of performance on deliveries as determined in writing by the County Purchasing Agent.

5. RESTRICTIVE OR AMBIGUOUS SPECIFICATIONS

It is the responsibility of the prospective proposer to review the entire invitation to bid/proposal packet and to notify the Purchasing Department if the specifications are formulated in a manner that would restrict competition or appear ambiguous. Any such protest or question(s) regarding the specifications or bid/proposal procedures must be received in the Purchasing Department no less than seventy-two hours prior to the time set for bid/proposal opening. Vendors are to propose as specified herein or propose an approved equal. The mention of any brand name in the specifications is not intended to be restrictive, but is intended to describe the general features and requirements (or equivalent) that the County of El Paso is seeking.

Under Local Gov't Code Section 262.005 and Health & Safety Code Section 361.426, the County is required to give preference to products made of recycled materials if they meet specs. The County is also required to encourage the use of recycled products in developing new procedures and specs. They are also required to eliminate procedures and specifications that explicitly discriminate against products made of recycled materials.

6. SUBSTITUTES

It is not the County's intent to discriminate against any material of equal merit to those specified however, should the proposer desire to use any substitutions, prior written approval shall be obtained from the County Purchasing Agent sufficiently in advance in order that an addendum might be issued.

7. EXCEPTIONS TO BID/PROPOSAL

The proposer will list on a separate sheet of paper any exceptions to the conditions of the bid/proposal. This sheet will be labeled, "Exceptions to Bid/Proposal Conditions", and will be attached to the bid/proposal. If no exceptions are stated, it will be understood that all general and specific conditions will be complied with, without exception.

The Bidder/Proposer must specify in its bid/proposal any alternatives it wishes to propose for consideration by the County. Each alternative should be sufficiently described and labeled within the bid/proposal and should indicate its possible or actual advantage to the program being offered.

The County reserved the right to offer these alternatives to other proposers.

8. PRICING

Bid/Proposals for equipment shall offer new (unused) equipment or merchandise unless otherwise specified. Quotes F.O.B. destination. If otherwise, show exact cost to deliver (merchandise only). Bid/Proposal will be either lump sum or unit prices as shown on the bid/proposal sheet. The net price will be delivered to the El Paso County, including all freight or shipping charges. In case of error in extension, unit prices shall govern. BID/RFP subject to unlimited price increases will not be accepted. The County is tax exempt and no taxes should be included in your bid/proposal.

Unless prices and all information requested are complete, bid/proposal may be disregarded and given no consideration.

In case of default by the contractor, the County may procure the articles or services from other sources and may deduct from any monies due, or that may thereafter become due to the contractor, the difference between the price named in the contract of purchase order and the actual cost thereof to the County. Prices paid by the County shall be considered the prevailing market price at the time such purchase is made. Periods or performance may be extended if the facts as to the cause of delay justify such extension in the opinion of the Purchasing Agent and the Commissioners' Court.

9. NON-APPROPRIATIONS

Vendor acknowledges that funding to pay for support and services referenced herein is subject to annual appropriations by Customer's governing body, and any termination, liability, indemnity, other provision in the Terms to the contrary

does not apply to Customer. In the event such funds are not appropriated in any fiscal year for support and services, Customer may terminate the agreement between the parties upon no less than 30 days prior written notice without incurring any termination liability or penalty. Such termination will not affect Customer's obligation with respect to payment for satisfactory service or support received through the termination date.

10. TAX EXEMPTION

Pursuant to Section 151.309 of the Texas Tax Code, El Paso County qualifies for exemption from sales, excise and use taxes imposed under the Limited Sales, Excise, and Use Tax Act, which is codified at Chapter 151 of the Texas Tax Code. In accordance with Section 151.309, a taxable item sold, leased, or rented to, or stored, used, or consumed by the County is exempt from the taxes imposed under Chapter 151.

11. MODIFICATION OF BIDS/PROPOSALS

A bidder/proposer may modify a bid/proposal by letter at any time prior to the submission deadline for receipt of bids/proposals. Modification requests must be received prior to the submission deadline. Modifications made before opening time must be initialed by bidder/proposer guaranteeing authenticity. Bids/Proposals may not be amended or altered after the official opening with the single exception that any product literature and/or supporting data required by the actual specifications, if any, will be accepted at any time prior to the Commissioners' Court consideration of same. No substitutions or cancellations for merchandise will be permitted without written approval of the County Purchasing Agent.

12. SIGNATURE OF BIDS/PROPOSALS

Each bid/proposal shall give the complete mailing address of the Bidder/Proposer and be signed by an authorized representative by original signature with the authorized representative's name and legal title typed below the signature line. Each bid/proposal shall include the Bidder's/Proposer's Federal Employer Identification Number (FEIN), failure to sign the Contract page(s) and bid/proposal response sheet will disqualify the bid/proposal from being considered by the County. The person signing on behalf of the Bidder/Proposer expressly affirms that the person is duly authorized to render the bid/proposal and to sign the bid/proposal sheets and contract under the terms and conditions of this BID/RFP and to bind the Bidder/Proposer thereto and further understands that the signing of the contract shall be of no effect until it is properly placed on the Commissioner's Court agenda, approved in open Court, authorized to be executed by the County Judge, and fully executed by both parties.

13. AWARD OF BID/PROPOSALS-EVALUTATION CRITERIA AND FACTORS

Pursuant to the Texas Local Government Code

Bids shall be awarded to the responsible bidder that submits the lowest and best bid.

Bid/Proposals will be made to the responsible proposer whose bid/proposal is determined to be the best evaluated offer demonstrating the best ability to fulfill the requirements set forth in this Request for Bid/Proposal. The prices proposed will be considered firm and cannot be altered after the submission deadline. **The proposed cost to the County will be considered firm, unless the County invokes its right to request a best and final offer and cannot be altered after the submission deadline.**

The County reserves the right to reject any or all bids/proposals in whole or in part received by reason of this BID/RFP and may discontinue its efforts under this BID/RFP for any reason or no reason or solely for the County's convenience at any time prior to actual execution of the contract by the County. County reserves the right to accept or reject all or any part of the bid/proposal, waive minor technicalities, or to award by item or by total bid/proposal. Price should be itemized.

A Bidder/Proposer whose bid/proposal does not meet the mandatory requirements set forth in this BID/RFP will be considered noncompliant.

Each Bidder/Proposer, by submitting a bid/proposal, agrees that if its bid/proposal is accepted by the Commissioners' Court, such Bidder/Proposer will furnish all items and services upon the terms and conditions in this BID/RFP and contract.

Contractor shall submit to the County, for approval, within ten (10) days from notice of contract award, all Certificates of Insurance evidencing the required coverage as described under Insurance in the schedule of the Requests for Bids/Proposals.

14. PUBLIC INFORMATION ACT

The parties agree that the County is a governmental body for purposes of the Public Information Act, codified as Chapter 552 of the Texas Government Code and as such is required to release information in accordance with the Public Information Act. Bidder/Proposer agrees that it has marked any information that it considers to be confidential, proprietary, and/or trade secret in its bid/proposal. County agrees to provide notice to Bidder/Proposer in accordance with the Public Information Act in the event the County receives a request for information under the Public Information Act for information that the Proposer has marked as confidential, proprietary, and/or trade secret.

15. RESULTANT CONTRACT

The resultant contract shall become effective upon the Commissioners' Court execution of the same. The contract documents shall consist of the contract, the general and special provisions, the drawings, bid/proposal package, any addenda issued, and any change orders issued during the work.

The criteria utilized for determining responsibility of bidder/proposer(s) includes, but is not limited to, the proposer's experience, skill, ability, business judgment, financial capacity, integrity, honesty, possession of the necessary facilities or equipment, previous performance, reputation, promptness, and any other factor deemed relevant by the County to determine whether a bidder/proposer is responsible. The term of the resultant contract will begin as stated in the contract executed by the Commissioners' Court and will terminate on the date specified in the contract unless terminated earlier as herein set forth.

16. ESTIMATED QUANTITIES

Any reference to quantities shown in the Request for Bids/Proposals are an estimate only. Since the exact quantities cannot be predetermined, the County reserves the right to adjust quantities as deemed necessary to meet its requirements.

17. CONTRACTOR INVESTIGATION

Before submitting a bid/proposal, each contractor shall make all investigations and examinations necessary to ascertain all site conditions and requirements affecting the full performance of the contract and to verify any representations made by the County upon which the contractor will rely. If the contractor receives an award as a result of its bid/proposal submission, failure to have made such investigations and examinations will in no way relieve the contractor from its obligation to comply in every detail with all provisions and requirements of the contract, nor will a plea of ignorance of such conditions and requirements be accepted as a basis for any claim whatsoever by the contractor for additional compensation.

18. NO COMMITMENT BY COUNTY

This Request for Bid/Proposal does not commit the County to award any costs or pay any costs, or to award any contract, or to pay any costs associated with or incurred in the preparation of a bid/proposal to this request, or to procure or contract for services or supplies.

19. BEST AND FINAL OFFERS

In acceptance proposals, the County reserves the right to negotiate further with one or more of the contractors as to any features of their proposals and to accept modifications of the work and price when such action will be in the best interest of the County. This includes solicitations of a Best and Final Offer from one or more of the proposers. If invoked, it allows acceptable proposers the opportunity to amend, change or supplement their original proposal. Proposers may be contacted in writing requesting that they submit their best and final offer. Any such best and final offer must include discussed and negotiated changes.

20. SINGLE BID/PROPOSAL RESPONSE

If only one (1) bid/proposal is received in response to the Request for Bids/Proposals, a detailed cost bid/proposal may be requested of the single

contractor. A cost/price analysis and evaluation and/or audit may be performed of the cost bid/proposal in order to determine if the price is fair and reasonable.

21. REJECTION/DISQUALIFICATION OF BIDS/PROPOSALS

El Paso County reserves the right to reject any or all bids/proposals in whole or in part received by reason of this bid/proposal package and may discontinue its efforts for any reason under this bid/proposal package at any time prior to actual execution of the Contract by the County. Bidders/Proposers may be disqualified and rejection of bid/proposals may be recommended to the Commissioners' Court for any of (but not limited to) the following causes:

- A. Failure to use the bid/proposal form(s) furnished by the County, if applicable.
- B. Lack of signature by an authorized representative that can legally bind the company on the bid/proposal form.
- C. Failure to properly complete the bid/proposal.
- D. Bids/proposals that do not meet the mandatory requirements.
- E. Evidence of collusion among bidders/proposers.

22. CHANGES IN SPECIFICATIONS

If it becomes necessary to revise any part of this bid/proposal, a written notice of such revision will be posted on the County Purchasing website. The County is not bound by any oral representations, clarifications, or changes made in the written specifications by the County's employees, unless such clarification or change is posted on the County Purchasing website. It shall be Bidder's/Proposer's responsibility to check the website prior to the bid/proposal opening date to verify whether any addendums have been posted.

23. BID/PROPOSAL IDEAS AND CONCEPTS

The County reserves the right to adopt or use for its benefits, any concept, plan, or idea contained in any bid/proposal.

24. BID/PROPOSAL DISCLOSURES

Results of bids/proposals for the purchase of goods, materials, general services and construction are considered public information at the time of the bid/proposal opening. All information contained in the bid/proposal response is available for public review.

The Proposal for Services: Only the names of those who submitted proposals will be made public information until an award is made by Commissioners' Court and contract executed by the parties. No price, staffing or other proposal information will be released. Proposers are requested to withhold all inquiries regarding their proposal or other submissions until after an award is made. No communication is to be had with any County employee, other than the Purchasing Agent, regarding whether a proposal was received. Violations of this provision may result in the rejection of a proposal.

25. WITHDRAWAL OF BID/PROPOSAL

Bidders/Proposers may request withdrawal of a sealed bid/proposal prior to the scheduled bid/proposal opening time provided the request for withdrawal is submitted to the Purchasing Agent in writing. No bids/proposals may be withdrawn for a period of sixty (60) calendar days after opening of the bids/proposals.

26. INDEMNIFICATION

- A.** The contractor shall agree to assume all risks and responsibility for, and agrees to indemnify, defend, and save harmless, the County, its elected and appointed officials and department heads, and its agents and employees from and against all claims, demands, suits, actions, recoveries, judgments, and costs and expenses including reasonable attorney's fees for the defense thereof in connection therewith on account of the loss of life property or injury or damage to the person which shall arise from contractor's operations under this contract, its use of County facilities and/or equipment or from any other breach on the part of the contractor, its employees, agents or any person(s) in or about the County's facilities with the expressed or implied consent of the County. Contractor shall pay any judgment with cost which may be obtained against El Paso County resulting from contractor's operations under this contract.

Contractor agrees to indemnify and hold the County harmless from all claims of subcontractors, laborers incurred in the performance of this contract. Contractor shall furnish satisfactory evidence that all obligations of this nature herein above designated have been paid, discharged or waived. If Contractor fails to do so, then the County reserves the right to pay unpaid bills of which County has written notice direct and withhold from Contractor's unpaid compensations a sum of money reasonably sufficient to liquidate any and all such lawful claims.

- B.** Pursuant to Texas Local Government Code Section 262.032(b), any successful bidder who is awarded any contract in excess of \$50,000 may be required to execute a performance bond to the County. Said bond shall be in the full amount of the contract and must be furnished within 30 days after the date a purchase order is issued or the contract is signed and prior to commencement of the actual work. A performance bond required pursuant to this section shall be noted in the attached detailed bid specifications or scope of work. This section does not apply to a performance bond required by Chapter 2253, Texas Government Code.

27. PROOF OF INSURANCE

Successful proposer agrees to keep in full force and effect, a policy of public liability and property damage insurance issued by a casualty company authorized to do business in the State of Texas, and in standard form approved by the Board of Insurance Commissioners' of the State of Texas, with coverage

provision insuring the public from any loss or damage that may arise to any person or property by reason of services limits of not less than the following sums:

INSURANCE REQUIREMENTS FOR CONSTRUCTION AND OTHER SERVICES PROVIDED TO THE COUNTY OF EL PASO

GENERAL LIABILITY:

Refer to Exhibit 6 Insurance Requirements 2(A) for specified limits.

Waiver of Subrogation

AUTOMOBILE:

\$1,000,000 – Each Occurrence

County named as “Additional Insured”

Waiver of Subrogation

WORKERS COMPENSATION:

\$1,000,000 – Employers Liability – Each Accident

\$1,000,000 – Employers Liability – Each Employee

\$1,000,000 – Employers Liability – Disease – Policy Limit

Statutory Limits

Waiver of Subrogation

CONSTRUCTION PROJECTS additional requirements:

Builders Risk Policy for total amount of completed project

Bid Bond

Performance & Payment Bond

PROFESSIONAL SERVICES additional requirements:

Limit of \$1,000,000 for E&O/Professional Insurance.

CERTIFICATE OF LIABILITY INSURANCE

In the remarks section should include job description or project name and/or number. Successful bidder shall carry in full force Workers' Compensation Insurance Policy (ies), if there is more than one employee, for all employees, including but not limited to full time, part time, and emergency employees employed by the successful bidder. Current insurance Certificates certifying that such policies as specified above are in full force and effect shall be furnished by successful bidder to the County. Insurance is to be placed with insurers having a best rating of no less than A. The Bidder shall furnish the County with certificates of insurance and original endorsements affecting coverage required by these insurance clauses within ten (10) business days of execution of this contract. The certificates and endorsements for each insurance policy are to be signed by a person authorized by the insurer to bind coverage on its behalf. The Bidder shall be required to submit annual renewals for the term of this contract prior to expiration of any policy.

In addition to the remedies stated herein, the County has the right to pursue other remedies permitted by law or in equity. The County agrees to provide Bidder with reasonable and timely notice of any claim, demand, or

cause of action made or brought against the County arising out of or related to utilization of the property. Proposer shall have the right to defend any such claim, demand or cause of action at its sole cost and expense and within its sole and exclusive discretion. The County agrees not to compromise or settle any claim or cause of action arising out of or related to the utilization of the property without the prior written consent of the Bidder. In no event shall the County be liable for any damage to or destruction of any property belonging to the Bidder.

County of El Paso shall be listed as the additional insured on policy certificates and shall be notified of changes to the policy during the contractual period.

The County reserves the right to review the insurance requirements during the effective period of the contract and to require adjustment of insurance coverage and their limits when deemed necessary and prudent by the County based upon changes in statutory law, court decisions, or the claims history of the industry as well as the contractor.

28. BOYCOTT OF ISRAEL

In accordance with Chapter 2270 of the Texas Government Code, a company, other than a sole proprietorship, with ten or more full time employees is required to certify in writing that it does not boycott Israel and will not boycott Israel during the term of the contract, if the contract has a value of \$100,000 or more.

29. MANDATORY DISCLOSURES:

Texas law requires the following disclosures by vendors:

Conflict of Interest Disclosure Reporting (required of all vendors responding to the Bid/RFP/RFQ)

Chapter 176 of the Texas Local Government Code requires that any vendor or person considering doing business with a local government entity make certain disclosures. In 2015, the Texas Legislature updated the law and the Texas Ethics Commission made corresponding changes to the Conflict of Interest Questionnaire (CIQ Form), in which the vendor must disclose any covered affiliation or business relationship with County personnel that might cause a conflict of interest with a local government entity. A list of County elected officials and employees that will award the bid/proposal and/or make recommendations for award are included in this bid/proposal. By law, a completed questionnaire must be filed with the County of El Paso County, Texas. If no conflict of interest exists, write "N/A" or "None" in Box 3 of the CIQ Form. For vendor's convenience, a blank CIQ Form is enclosed with this bid/proposal. Blank CIQ Forms may also be obtained by visiting the Purchasing Department website at: <http://epcounty.com/purchasing/bids/default.htm>

Disclosure of Interested Parties (only required of vendors who are awarded the Bid/RFP/RFQ)

In 2015, the Texas Legislature added Section 2252.908 to Chapter 2252 of the Texas Government Code. Pursuant to Section 2252.908, for contracts entered into January 1, 2016 and after, the awarded vendor must submit to the County a completed "Certificate of Interested Parties" form, which will be included in the Commissioners Court agenda at the time the contract is approved and sent to the Texas Ethics Commission within 30 days thereafter.

Compliance with this new requirement requires logging into the Texas Ethics Commission website, at:

https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm Several instructional videos are available there.

30. NON-COLLUSION AFFIDAVIT

The contractor declares, by signing and submitting a bid/proposal, that the bid/proposal is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the bid/proposal is genuine and not collusive or sham; that the contractor has not directly or indirectly induced or solicited another contractor to put in a false or sham bid/proposal, and has not directly or indirectly colluded, conspired, connived, or agreed with any contractor or anyone else to put in a sham bid/proposal, of that anyone shall refrain from bidding; that the contractor has not in any manner, directly or indirectly, sought by agreement, communications, or conference with anyone to fix the bid/proposal price of the contractor or any other bidder/proposer, or to fix any overhead, profit or cost element of the bid/proposal price, or of that of any other contractor, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract, that all statements contained in the bid/proposal are true; and further, that the contractor has not, directly or indirectly, submitted his or her bid/proposal price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any cooperation, partnership, company association, organization, bid/proposal depository, or to any member or agent thereof to effectuate a collusive or sham bid/proposal.

Non negotiations, decisions, or cautions shall be initiated by any company as a result of any result of any verbal discussion with any County employee prior to the opening of responses to this Request for Bid/Proposal.

No officer or employee of the County, and no other public or elected official, or employee, who may exercise any function or responsibilities in the review or approval of this undertaking, shall have any personal or financial interest, direct or indirect, in any contract or negotiation process thereof. The above compliance request will be part of all County contracts for this service.

31. SOVEREIGN IMMUNITY

The County specifically reserves any claim it may have to sovereign, qualified, or official immunity as a defense to any action arising in conjunction with this contract.

32. MERGERS, ACQUISITIONS

The Bidder/Proposer shall be required to notify the County of any potential for merger or acquisition of which there is knowledge at the time that a bid/proposal is submitted.

If subsequent to the award of any contract resulting from this BID/RFP the Bidder/Proposer shall merge or be acquired by another firm, the following documents must be submitted to the County.

1. Corporate resolutions prepared by the awarded Proposer and the new entity ratifying acceptance of the original contract, terms, conditions and prices;
2. New Bidder's/Proposer's Federal Identification Number (FEIN); and
3. New Bidder's/Proposer's proposed operating plans.

Moreover, Bidder/Proposer is required to provide the County with notice of any anticipated merger or acquisition as soon as Bidder/Proposer has actual knowledge of the anticipated merger or acquisition. The new Bidder's/Proposer's proposed plan of operation must be submitted prior to merger to allow time for submission of such plan to the Commissioners' Court for its approval.

33. DELAYS

The County reserves the right to delay the scheduled commencement date of the contract if it is to the advantage of the County. There shall be no additional costs attributed to these delays should any occur. Bidder/Proposer agrees it will make no claim for damages, for damages for lost revenues, for damages caused by breach of contract with third parties, or any other claim by Bidder/Proposer attributed to these delays, should any occur. In addition, Bidder/Proposer agrees that any contract it enters into with any third party in anticipation of the commencement of the contract will contain a statement that the third party will similarly make no claim for damages based on delay of the scheduled commencement date of the contract.

34. ACCURACY OF DATA

Information and data provided through this BID/RFP are believed to be reasonably accurate.

35. SUBCONTRACTING/ASSIGNMENT

Bidder/Proposer shall not assign, sell, or otherwise transfer its contract in whole or in part without prior written permission of Commissioners' Court. Such consent, if granted, shall not relieve the Bidder/Proposer of any of its responsibilities under this contract.

36. INDEPENDENT CONTRACTOR

Bidder/Proposer expressly acknowledges that it is an independent contractor. Nothing in this agreement is intended nor shall be construed to create an agency relationship, an employer/employee relationship, a joint venture relationship, or any other relationship allowing County to exercise control or direction over the

manner or method by which Bidder/Proposer or its subcontractors perform in providing the requirements stated in the Request for Bid/Proposal.

37. MONITORING PERFORMANCE

The County shall have the unfettered right to monitor and audit the Vendor's work in every respect. In this regard, the Vendor shall provide its full cooperation and insure the cooperation of its employees, agents, assigns, and subcontractors. Further, the Vendor shall make available for inspection and/or copying when requested, original data, records, and accounts relating to the Bidder's/Proposer's work and performance under this contract. In the event any such material is not held by the vendor in its original form, a true copy shall be provided.

The County of El Paso is an equal opportunity employer.

38. PROCUREMENT ETHICS

CODE OF ETHICS TRAINING AFFIDAVIT FORM

El Paso County Code of Ethics Training Requirement for Vendors:

Any vendor involved in a single procurement exceeding \$50,000 must read and sign the El Paso County Code of Ethics Training Affidavit that is included in each bid/proposal packet. By reading and signing the Affidavit form, the bidder has confirmed that they have been trained in the El Paso County Code of Ethics. The training must be completed by an officer, principal, or other person with the authority to bind the company.

Optional On-Line Training: As an alternative to reading and completing the El Paso County Code of Ethics Training Affidavit, in compliance with Section 161 of the Texas Local Government Code, the training on the El Paso County Code of Ethics is accessible in an online format to Vendors and Lobbyists on an ongoing basis, subject only to limitations due to technical resources.

The optional On-Line Training may be accessed and completed at:

<http://www.epcounty.com/ethicscom/training.htm>

If completed on-line, the training receipt should be printed out and included with the BID/RFP/RFQ/RFI.

COUNTY OF EL PASO, TEXAS

CERTIFICATIONS REGARDING LOBBYING, DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; DRUG-FREE WORKPLACE REQUIREMENTS; FEDERAL DEBT STATUS, AND NONDISCRIMINATION STATUS AND IMPLEMENTING REGULATIONS*

Instructions for the certifications:

General Requirements

The County of El Paso, Texas is required to obtain from all applicants of federal funds or pass-through certifications regarding federal debt status, debarment and suspension, and a drug free workplace. Institutional applicants are required to certify that they will comply with the nondiscrimination statutes and implementing regulations.

Applicants should refer to the regulations cited below to determine the certifications to which they are required to attest. Signature of the form provides for compliance with certification requirements under 21 CFR part 1405, "New Restrictions on Lobbying," 21 CFR part 1414, Government wide Debarment and Suspension (Non procurement), Certification Regarding Federal Debt Status (OMB Circular A-129), and Certification Regarding the Nondiscrimination Statutes and Implementing Regulations. The certifications shall be treated as a material representation of fact upon which reliance will be placed when the County of El Paso determines to award the covered cooperative agreement

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented in 21 CFR part 1405, for persons entering into a cooperative agreement over \$100,000, as defined at 21 CFR Part 1405, the applicant certifies 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 agency, a member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into continuation, renewal, amendment, or modification of any Federal grant 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 Congress, or an employee of a Member of Congress in connection with this Federal Grant or cooperative agreement, the undersigned shall complete and submit Standard Form -LLL, "Disclosure of Lobbying Activities," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award document for all sub-awards at all tiers (including sub-grants, contracts under grants and cooperative agreements, and subcontracts) and that all sub-recipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

As required by Executive Order 12549, Debarment and Suspension and implemented at 21 CFR Part 1404, for prospective participants in primary covered transactions

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, sentenced to a denial of Federal benefits by a State or Federal court, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or and a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (Federal, State, or local) transaction or contract under a public transaction violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to the application.

3. DRUG-FREE WORKPLACE

As required by the Drug Free Workplace Act of 1988, and implemented at 21 CFR Part 1404 Subpart F.

A. The applicant certifies that it will or will continue to provide a drug free workplace by:

(a). Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the applicant's workplace and specifying the actions that will be taken against employees for violations of such prohibition;

(b) Establishing an on-going drug free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace;

(2) The applicant's policy of maintaining a drug free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violation occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a)

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee must

- (1) Abide by the terms of the statement; and
- (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction.

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such convictions. Employers of convicted employees must provide notice including position title, to: The County of El Paso, Texas, 500 East San Antonio Street, Suite 406, El Paso, Texas 79901. Notice shall include the identification number of each affected grant

(f) Taking one of the following actions within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

- (1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
- (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal State, or local health, law enforcement, or other appropriate agency

(g) Making a good faith effort to continue to maintain a drug free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

4. CERTIFICATION REGARDING FEDERAL DEBT STATUS (OMB Circular A-129)

The Applicant certifies to the best of its knowledge and belief, that it is not delinquent in the repayment of any federal debt.

5. CERTIFICATION REGARDING THE NONDISCRIMINATION STATUTES AND IMPLEMENTING REGULATIONS

The applicant certifies that it will comply with the following nondiscrimination statues and their implementing regulations: (a) title VI of the Civil right Act of 1964 (42 U.S.C. 2000D et seq.) which provides that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of or be otherwise subjected to discrimination under any program or activity for which the applicant received federal financial assistance; (b) Section 504 of the rehabilitation Act of 1973, as amended (29 U.S.C. 794), which prohibits discrimination on the basis of handicap in programs and activities receiving federal financial assistance; (c) title IX of the Education Amendments of 1972m as amended (20 U.S.C. 1981 et seq.) which prohibits

discrimination on the basis of sex in education programs and activities receiving federal financial assistance; and (d) the Age Discrimination Act of 1975, and amended (42 U.S.C. 6101 ec seq.) which prohibits discrimination on the basis of age in programs and activities receiving federal financial assistance, except that actions which reasonably take age into account as a factor necessary for the normal operation or achievement of any statutory objective of the project or activity shall not violate this statute.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

Business Name

Date

Name of Authorized Representative

Signature of Authorized Representative

1

*All four (4) pages of this document must be included in all responses.

HEALTH INSURANCE BENEFITS QUESTIONNAIRE

Texas Local Government Code Section 262.0271 states the County may give preference to bidders that provide reasonable health insurance coverage to its employees, over a bidder that doesn't provide such insurance. Complete the questionnaire below if applicable. If not, check box #3.

1. Do you or your subcontractor(s) currently offer health insurance benefits to your employees?

If so, please describe those health insurance benefits that you or your subcontractor(s) currently provide/offer to your employees.

2. What percentage, if any, of your of your subcontractor's employees are currently enrolled in the health insurance benefits program?

3. **No. The bidder is not requesting the Health Insurance Benefits Preference.**

Checking Box #3 will not disqualify you from participating in this bid selection process.

Business Name

Date

Name of Authorized Representative

Signature of Authorized Representative



COUNTY OF EL PASO
County Purchasing Department
800 East Overland, RM 300
El Paso TX 79901
(915) 546-8180 Fax

RE: Bid 21-028, El Paso Hills Channel Project for the County of El Paso

Dear Vendor:

The Texas Local Government Code Chapter 176 requires all vendors and potential vendors who contract or seek to contract for the sale or purchase of property, goods, or services with any local government entity to complete and submit a Conflicts of Interest Questionnaire. Attached is a copy of the questionnaire.

In filing out the Questionnaire, the following are the County Officers that will award the bid and the employees which will make a recommendation to the Commissioners' Court:

County Officers: County Judge Ricardo A. Samaniego
Commissioner Carlos Leon
Commissioner David Stout
Commissioner Iliana Holguin
Commissioner Carl L. Robinson

County Employees: Jose Lopez, Jr., Interim Purchasing Agent
Betsy Keller, County Administrator
Elvia Jauregui, Purchasing Manager
Araceli Hernandez, Formal Bid Buyer
Claudia Parra, Procurement Data Analyst
Blanca Guereca, Procurement Data Analyst
Edward Dion, County Auditor
Barbara Franco, Auditor First Assistant
Wallace Hardgrove, Budget & Financial Manager
Christina Ford, Division Chief
Eddie Sosa, First Assistant County Attorney
Diana Shearer, Assistant County Attorney
Erich Morales, Assistant County Attorney
Kevin McCary, Assistant County Attorney
Patricia Lopez, Assistant County Attorney
Lorena Rodriguez, Analyst
Fernando Hernandez, CIP & Design Engineer
Norma Rivera-Palacios, Public Works Director

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

FORM CIQ

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

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

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

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

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

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

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

(2) the vendor:

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

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

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

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

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

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

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

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

(1) the date that the vendor:

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

(2) the date the vendor becomes aware:

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

Effective January 1, 2016, Texas Legislature adopted [House Bill 1295](#), which states that a governmental agency may not enter into certain contracts with a business entity, unless the business entity submits a disclosure of interested parties to the governmental entity. **This Certificate of Interested Parties - Form 1295 must be submitted before the county can enter into the contract**

- The Form 1295 must be submitted online at https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm.
- Upon completion, you will be provided a verification printout.
- The printout must be notarized and then submitted to the County of El Paso for verification.

Upon the County's receipt of your notarized Form 1295, the contracting process can begin. Failure to complete and submit the Form 1295 will delay the contract from possibly being awarded and could result in loss of the contract.

CIVIL LITIGATION CERTIFICATION

If the Bidder/Proposer has no civil litigation history to report as described above, complete the following:

I, _____, certify that neither.
(print name of owner, officer, manager, or licensee responsible for submission of Bid/Proposal)

(Bidder/Proposer name as shown on Bid/Proposal)

nor _____
(name of responsible managing person licensed by the Contractors' State License Board)

has been the subject of a final judgment in civil litigation as described above.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this _____ day of _____ at _____
(month and year) (city and state)

by _____
(signature of owner, officer, manager, or licensee responsible for submission of Bid/Proposal)

Self-Disclosure of Environmental Safety Violations

CONTACT INFORMATION FOR INDIVIDUAL SUBMITTING THE SELF-DISCLOSURE

Title: _____

First Name: _____

Middle Name (or initial): _____

Last Name: _____

Is the individual submitting this self-disclosure authorized by the company to make such a disclosure and is this person an authorized signatory (having authority to perform policy or decision-making functions of the company)?_Yes_No

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____

FACILITY/SITE INFORMATION

Number of Facilities/sites involved with this environmental violation(s):

Note: If more than one facility/site is involved with this environmental violation(s), please indicate the number of facilities/sites above and attach a sheet to your final submission with the physical address) for each facility/site, and identify which facilities/sites have which violation(s).

Facility/Site Physical Address: _____

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Describe Environmental Safety Violation

NOTE: Each safety violation should be described as completely as possible and include the following information:

- Nature and description of violation(s) and specific regulatory, permit and/or statutory provision violated (include state references where appropriate).
- Identify the name, title, and employer of each person who discovered the safety violation, and what they were doing when the violation was discovered.

- How the safety violation was discovered; i.e., describe the moment at which the person first realized (objectively reasonable basis) that the violation(s) may have occurred or did occur.
- Physical location of violation.
- Please state if the safety violation was voluntarily discovered. Voluntary discovery did not occur if the violation was found through a legally required monitoring, sampling, or auditing procedure that is required by statute, regulation, permit, judicial or administrative order, or consent agreement.
- Please provide the date of discovery of each safety violation disclosed.
- How the safety violation was corrected and how any harm was remediated.
- Describe any environmental or human harm caused by the violation, and any measures undertaken to remediate such harm.
- Describe what steps were taken to prevent recurrence of the violation and provide the date that those measures were implemented. If the measures have not yet been implemented, provide the implementation schedule setting forth the dates of the anticipated actions.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this _____ day of _____ at _____
 (month and year)

(city and state)

by _____
 (signature of owner, officer, manager, or licensee responsible for submission of Bid/Proposal)

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

| | |
|---|------------------------|
| Complete Nos. 1 - 4 and 6 if there are interested parties. Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties. | OFFICE USE ONLY |
| 1 Name of business entity filing form, and the city, state and country of the business entity's place of business. | |
| 2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed. | |

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

| 4 Name of Interested Party | City, State, Country (place of business) | Nature of Interest (check applicable) | |
|-------------------------------|---|---------------------------------------|--------------|
| | | Controlling | Intermediary |
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5 Check only if there is NO Interested Party.

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

Signature of authorized agent of contracting business entity

AFFIX NOTARY STAMP / SEAL ABOVE

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

Signature of officer administering oath Printed name of officer administering oath Title of officer administering oath

ADD ADDITIONAL PAGES AS NECESSARY

COUNTY OF EL PASO, TEXAS
Solicitation Check List

Bid 21-028
El Paso Hills Channel Project for the County of El Paso

THIS CHECKLIST IS PROVIDED FOR YOUR CONVENIENCE

_____ Responses should be delivered to the County Purchasing Department by **2:00 p.m., Thursday, August 12, 2021.**

No in-person submittals are allowed. Vendors must mail via USPS or third-party carrier (i.e. Fed-Ex/UPS). The County of El Paso is not responsible for late deliveries of any kind or any reason.

_____ Did you visit our website (www.epcounty.com) for any addendums?

_____ Did you sign all required Bid Documents?

_____ Did you sign the “Certifications Regarding Lobbying, Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements; Federal Debt Status, and Nondiscrimination Status And Implementing Regulations” document?

_____ If seeking preference, did you sign the “Health Insurance Benefits Questionnaire”?

_____ Did you sign and complete the required “Conflict of Interest Questionnaire”?

_____ Did you sign and complete the required “Safety Records Policy”?

_____ Did you sign and complete the required “Ethics Affidavit Form”?

_____ Did you provide the required bid bond documents?

_____ Did you provide one original and two (2) electronic versions of the complete bid (CD/DVD/Flash drive) in Word/PDF Format of your response? Electronic copy must reflect the original hard copy.